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M. TULLII CICERONIS

DE ORATORE LIBER PRIMUS;

WITH NOTES FROM THE GERMAN OF

DR KARL WILHELM PIDERIT

TRANSLATED AND EDITED

BY

AUGUSTUS S. WILKINS,

(B.A. UNIV. LOND., B.A. CAMB.)

SCHOLAR OF ST. JOHN'S COLLEGE;

ASSISTANT LECTURER IN CLASSICS AT OWENS COLLEGE, MANCHESTER.

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E. JOHNSON, TRINITY STREET.

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Price Four Shillings.

600084571V

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294. f. 6.

Cambridge:
PRINTED BY C. J. CLAY, M.A.
AT THE UNIVERSITY PRESS.

VIRO DOCTISSIMO ET HUMANISSIMO

CAROLO GUILELMO PIDERIT,

QUASCUMQUE IN HOC OPERE POST EUM EDENDO

IMPENDI CURAS

SUMMAE REVERENTIAE CAUSA

D. D. D.

EDITOR'S PREFACE.

A GOOD English edition of Cicero's treatise De Oratore is still a great desideratum. On the Continent much attention has deservedly been paid to it, and several elaborate editions have been published within the last few years, each with its own special points of excellence. But the one which is perhaps the most practically useful of all, that by Dr Piderit, is placed beyond the reach of many by the fact that its notes are written in German; and besides this, at a time when the First Book of the De Oratore is a subject for lectures in all the colleges connected with the London University, it happens to be quite out of print. It seemed therefore that I should be doing good service by issuing a translation of this portion of his work. The estimation in which Dr Piderit's edition is held in Germany is sufficiently shown by the fact that the first edition was published in 1859 and a second edition called for in 1862, which has already been exhausted. It has been a matter of much regret that it was impossible to adapt the valuable Introduction and explanatory Indices of the German edition to this translation of part of it. But wherever practicable the information given in them has been interwoven with the notes, such additions being placed in square brackets followed by the letter P. Notes

in square brackets without any letters appended are by the editor, and refer chiefly to grammatical points. The text is that of Dr Piderit, which differs but slightly from the text of Kayser; all important variations have been mentioned in the notes. I have to offer my very sincere thanks to Dr Piderit for the extremely ready and courteous assent he gave to my request that I might render his work available to English students: and also to my friend Mr Sandys, of St John's College, Cambridge, for much valuable assistance in the correction of the proof sheets.

INTRODUCTION.

CICERO'S treatise De Oratore was intended to form, together with the Brutus and Orator, a continuous and connected series of works upon rhetoric. Of these the De Oratore is unquestionably the earliest, having been finished before the end of B.C. 55 (Epp. ad Att. IV. 13): the Brutus, a critical history of Roman eloquence in the form of a dialogue between Cicero himself, M. Brutus, and Atticus, followed in B.C. 46; and the Orator, a picture of the perfect ideal orator, in B.C. 45. The leisure from political occupation enjoyed by Cicero at the time of the composition of the De Oratore, and the wealth of learning and practical experience which he possessed upon this subject, combined with the interest which he took in the accomplishment which had raised him, a *novus homo*, to the highest honours of the state, unite to make this work one of the most finished and perfect specimens of his genius. Consummate art is shown in the choice of the time, the place, and the persons of the dialogue. The fame of the great orators Crassus and Antonius, who sustain the principal parts in it, adds weight to their precepts, and each has the subject assigned to him for which his traditional reputation best fitted him. The first book is mainly introductory; and after some preliminary expla-

nations, addressed by Cicero to his brother Quintus, it is occupied with a discussion as to the extent of general knowledge which an orator ought to possess. In the second book Antonius and Crassus enter upon the τεχνολογία (ad Att. IV. 16) of the subject, and discuss the principles and rules by which success in oratory may be secured. Antonius treats of the invention of arguments in the three classes of oratory, the judicial, the deliberative, and the demonstrative or epideictic. Then C. Julius Caesar (the half-brother to Q. Lutatius Catulus) discourses on wit, and gives specimens of the jokes of the Roman orators and advocates, most of them frigid enough. Antonius concludes the book with a disquisition on artificial memory. In the third book Crassus discourses on *elocutio*, which comprehends both verbal expression and delivery. He explains the various requisites for speaking *pure*, *dilucide*, *ornate* and *apte*; and the fitting choice of words, metaphors, and rhythm. Finally, he discusses *actio*, including in this the proper management of the voice, the countenance and the gestures of the orator. "Omnes denique hi libri ita venusti, ita elegantes sunt ut ab illis non solum praecepta, sed etiam exempla eloquentiae petenda sint." Cicero himself says of them, "Sunt etiam *de oratore* nostri tres (libri) *mihi vehementer probati*." It may be added that the first book is considerably easier and more interesting than the other two, as containing much fewer of those technical terms and expressions, for which it is often very difficult to find good English equivalents.

The following brief notices of the principal persons in the dialogue may be found useful to the student.

L. Licinius Crassus (born in B.C. 140) made his *debut*

as an orator in 119 by impeaching C. Papirius Carbo, in his tribunate (131) a supporter of Ti. Gracchus, but as consul (120) an adherent of the aristocratic party. Carbo was the most distinguished advocate of his time (optimus illis temporibus est patronus habitus—Brut. 27. 105), but the eloquence of the young Crassus had such an effect upon the jury that Carbo committed suicide. In 118 he urged the *deductio* of a colony to Narbo Martius in Gaul, against the wishes of the senate: but later on he endeavoured to win the favour of the latter, especially by his support of the lex Servilia of Caepio, in 106, which gave back to the senate the *judicia*, taken from them by Caius Gracchus. In 95 Crassus was consul, and spoke, though without success, in defence of Caepio, who was brought to trial for pillaging the temple of Apollo at Tolosa (Toulouse) in 106, and also for his defeat by the Cimbri in the following year. The colleague of Crassus in this, as in most of his magistracies, was Q. Mucius Scaevola the Pont. Max.; and the two carried the lex Licinia Mucia *de civibus regundis*, which expelled the Italians from Rome, and so contributed to the outbreak of the Social War. In 92 Crassus was censor and issued an edict against the schools of the Latin rhetoricians as *ludos impudentiae;* this year was also marked by a quarrel with his colleague Cn. Domitius Ahenobarbus, whom he assailed with the keenest shafts of his wit (Suet. Ner. 2). In 91 he took a prominent part in the senate in opposition to the Consul Philippus; and in a violent speech delivered against him ten days after the supposed date of this dialogue, he exerted himself so much as to bring on an attack of pleurisy, which proved fatal (De Or. III. 1. 1—6). For elevation of character, keen wit, exquisite choice of language, wealth of

accomplishments and power of oratory, always kept in restraint by perfect taste, Crassus is considered by Cicero to have been unrivalled.

Marcus Antonius, the father of Cicero's colleague in his consulship and the grandfather of the triumvir, was three years older than Crassus. While Crassus was distinguished for *elocutio* and *actio*, Antonius excelled in *inventio, collocatio* and *memoria:* the power of Crassus lay chiefly in the assembly of the people and the senate: the power of Antonius lay chiefly in the law-courts (Brut. 44. 165). The latter had singular acuteness, fertility, readiness and facility in reply; and marshalled his arguments with all the skill of an accomplished general. While the action of Crassus was moderate and restrained, that of Antonius was energetic in the extreme. He commenced his career by prosecuting Cn. Papirius Carbo in 111 for the defeat which he had received from the Cimbri at Noreia in 113. About the same time was the celebrated suit of Marius Gratidianus against Sergius Orator, in which both Crassus and Antonius were engaged (De Or. I. 39. 178). In 98 he successfully defended M. Aquilius the victor in the Sicilian Servile war in a trial *de rebus repetundis*. In 94 he was equally successful in defending C. Norbanus against Sulpicius. Antonius was one of the many aristocratic leaders accused by Q. Varius in 91 of favouring the designs of the Italians, but he was triumphantly acquitted; only to be slain in 87 by the myrmidons of Cinna and Marius, upon the return of the latter from banishment.

P. Sulpicius Rufus was considerably younger than either of the two great orators, having been born in 124. At first he was the hope of the aristocratical party (I. 7.

25), who took pride in his splendid oratorical talents, his magnificent voice and general beauty of physique. But afterwards, possibly in consequence of the defence of the turbulent demagogue Norbanus by the aristocratical leader Antonius, he joined the Marian party, and when tribune in 88, after carrying the distribution of the new Italian citizens through the 35 tribes on equal terms with the old citizens, he proposed a law depriving Sulla of his command against Mithridates and conferring it upon Marius. But upon the return of Sulla with his army from Nola, Sulpicius was proscribed and slain in flight.

C. Aurelius Cotta was born in the same year as Sulpicius, but was a complete contrast to him. "Nihil ample Cotta," says Cic. (Or. 30. 106), "nihil leniter Sulpicius." He was devoted to Antonius, as Sulpicius was to Crassus, but his gentler and more sedate character, together with his physical weakness, prevented his oratory from possessing the fire and energy of that of his master. He was characteristically an adherent of the Academic philosophy, and appears as its representative in Cicero's treatise De Natura Deorum. Like so many others of his party he was prosecuted in 91 by Q. Varius, and sent into exile, partly perhaps in consequence of his connexion with the upright but unpopular Rutilius Rufus, who was his uncle. He returned from banishment with Sulla in 82, and in 75 was consul. During his year of office he struck a blow at the Sullan constitution, which proved fatal to it, by carrying a law that tribunes should be afterwards eligible to other magistracies. After his consulship he gained some military successes in Gaul, but died before he could enjoy the triumph which was decreed to him for them.

Q. Mucius Scaevola, distinguished by the official name

augur from his cousin of the same name, the pontifex max., was illustrious like all the Mucii for his knowledge of law. In 121 he went as praetor to Asia, and on his return he was accused *de rebus repetundis*, but was acquitted, though he used no kind of art in his defence. In 117 he attained the consulate. Though an adherent of the aristocratic party he nobly refused in spite of all the threats of Sulla to vote for a measure declaring Marius a public enemy. He died in 84 at a great old age.

M. TULLII CICERONIS DE ORATORE

LIBER PRIMUS.

1 COGITANTI mihi saepenumero et memoria vetera repe- 1
tenti perbeati fuisse, Quinte frater, illi videri solent, qui 1
in optima re publica, cum et honoribus et rerum gesta-
rum gloria florerent, eum vitae cursum tenere potuerunt,
5 ut vel in negotio sine periculo vel in otio cum dignitate
esse possent; ac fuit cum mihi quoque initium requies-

Introduction, c. 1—8. 1.] *Personal and external reasons by which Cicero was induced to compose this treatise* de Oratore.

1 *Cog. m. s.*] The more discontented Cicero is with the position of affairs at the time, the more readily does he give himself up to the retrospective contemplation and comparison of former days. Hence *vetera* (III. 8. 29) not merely denotes *praeterita*, "as things were formerly" (ad Fam. XI. 27. 2), quantum memoria repetere praeterita possum, but is in emphatic opposition to the present, "as things are now no longer:" thus fortunate circumstances belong to the good old times, and for us are no more.

3 *in opt. r. p.*] At a time when the state was still in a healthy condition, under favourable political circumstances. Acad. pr. II. 5. 15, tum exortus est ut in optima republica Ti. Gracchus, qui otium perturbaret. Cf. III. 17. 63, hac praesertim re publica; especially in the present state of political affairs. This is the first and most important, the objective condition of that happy lot; the other is the subjective, their own honourable position, and their maintenance of it to the end.

4 *vitae c. t.*] A very common metaphor, borrowed from navigation; to preserve the direction once taken firm and unchangeable, without wavering. Cf. pro Sestio, 46. 99, enitendumque—ut tenere cursum possint et capere *otii* illum *portum* et *dignitatis*.

5 *negot.*] comprises the whole of a statesman's activity in public life: *otium* is the opposite, the vacatio a reipublicae administratione, the retirement from public life.

sine—cum] without imperilling his own life, and with the preservation of the position once won (II. 83, 340; 85, 346), pro Sest. 45. 98. Neque enim rerum gerendarum dignitate homines efferri ita convenit, ut otio non prospiciant, neque ullum amplexari otium, quod abhorreat a dignitate.

6 *ac fuit cum—arbitrarer*] con-

cendi atque animum ad utriusque nostrum praeclara studia referendi fore iustum et prope ab omnibus concessum arbitrarer, si infinitus forensium rerum labor et ambitionis occupatio decursu honorum, etiam aetatis flexu constitisset. Quam spem cogitationum et consiliorum meorum cum graves communium temporum tum varii nostri casus fefellerunt; nam qui locus quietis et tranquillitatis plenissimus fore videbatur, in eo maximae moles molestiarum et turbulentissimae tempestates exstiterunt;

nected with the last-mentioned otium honestum, "there *was* a time (it is now past) in which I might believe (as I thought);" hence the conjunctive (on the other hand Liv. VII. 32. 12, fuit *cum* hoc dici *poterat*), i. e. the time when the future lay before him rich in promise, and the bitter deceptions had not yet appeared [cf. Madvig, § 358, Obs. 4].

1 *praeclara studia*] are the higher scientific studies, especially as opposed to the occupations of practical life, like the praeclarissimae artes, quibus liberales doctrinae atque ingenuae continentur, as opposed to the a. sordidiores (III. 32. 127 and 128). Cf. pro Mur. 10. 22, omnes urbanae res, omnia haec nostra *praeclara studia* et haec forensis laus et industria latent in tutela ac praesidio bellicae virtutis.

3 *inf. for. rer.*] In the innumerable speeches of defence in law-courts and orations before the people which daily claimed the services of a young Roman, especially if he, like Cicero, had to create for himself a political position as a *novus homo*.

amb. occ.] (cf. I. 21. 94, ambitio et forum, III. 2. 7, ambitionis labor) embraces all the manifold exertions, which recurred on a greater scale at every candidature for office, to secure influential advocates, and to win the favour of the electors, the salutare, rogare, supplicare, manus prensare (I. 24. 112), besides which the convivia tributim data, the invitare ad prandium, and especially all the recognised means of bribery were needful to secure the voices of the electors.

4 *dec. hon. etiam aet. flexu*] according to a very common metaphor borrowed from the race-course. Cf. Cat. Maj. 23. 83, and κάμπτειν τὸν βίον. [On this last phrase see Blomf. Gloss. ad Aesch. Ag. 335.]

5 *Quam spem...fef.*] A complaint which Cicero felt compelled afterwards to raise in yet more forcible language: Brut. 2. 8. Ita nobismet ipsis accidit, ut quamquam essent multo magis alia lugenda, tamen hoc doleremus, quod quo tempore aetas nostra perfuncta rebus amplissimis, tamquam in portum confugere deberet, non inertiae neque desidiae, sed otii moderati atque honesti, cumque ipsa oratio jam nostra canesceret haberetque suam quandam maturitatem et quasi senectutem, tum arma sunt ea sumpta, &c.

6 *grav. c. t. c.*] the conspiracy of Catiline, momentous to the whole state as well as to Cicero personally, and the violent party-contests, which afterwards brought the republic to ruin.

var. n. c.] esp. his persecution by Clodius and banishment, B.C. 58. Cf. Brut. 3. 17, post rerum nostrarum et communium gravissimos casus.

8 *max. mol. molest.*] The alliteration (in the so-called forma etymologica) increases the emphasis [cf. Lobeck. Paralip. pp. 501—538].

neque vero nobis cupientibus atque exoptantibus fructus otii datus est ad eas artes, quibus a pueris dediti fuimus, celebrandas inter nosque recolendas. Nam prima aetate 3 incidimus in ipsam perturbationem disciplinae veteris, et consulatu devenimus in medium rerum omnium certamen atque discrimen, et hoc tempus omne post consulatum obiecimus eis fluctibus, qui per nos a communi peste depulsi in nosmet ipsos redundarent. Sed tamen in his vel asperitatibus rerum vel angustiis temporis obsequar stu-

1 *neque vero*] The connection of thought is, "But not only is the happiness denied me of leading, after the completion of my political career, in the evening of my days, a peaceful life, devoted entirely to the higher branches of learning; besides this I have, in spite of my most ardent wishes, been able to secure no time to carry on further together with you the pursuits of my early youth," that is, the specially rhetorical studies, and those most closely connected with oratory.

3 *prima aetate*] at the time of life which succeeds pueritia, when we formerly were able to devote ourselves to those studies of youth.

4 *in ipsam perturbationem disciplinae veteris*] in the time of the civil war between Marius and Sulla, which broke out in the year 89, when Cicero had just reached his 18th year; therefore just in the midst of the destruction of the historical order of the Roman life, and the overthrow of the constitution by Sulla. Cf. Sall. Cat. XI. 4, ad Fam. XVI. 11. 2, incidi in ipsam flammam civilis discordiae vel potius belli. Of the three words, *incidimus* brings into prominence that which was fortuitous and involuntary (§ 111, and ad Fam. II. 7. 2, quod in id reipublicae tempus non incideris, sed veneris, iudicio enim tuo, non casu in ipsum discrimen rerum contulisti tribunatum tuum); *devenimus* is, on the other hand, I was compelled to throw myself into the midst of the common decisive contest with the Catilinarian conspiracy; *obiecimus* means, that Cic. during the seven years (62—56) just over had thrown himself like a dam in the path of the billows that were threatening destruction, that he might break their force, for the preservation of the community.

7 *a communi peste depulsi*] *i.e.* depulsi quominus universae civitati perniciei essent, as in pro Sestio, 19. 43, is (Clodius) qui hac medicina sola (*i.e.* death) potuit a reipublicae peste depelli, which he would otherwise have inevitably caused.

8 *redundarent*] which in their recoil were destined to overwhelm me: as was the case in the embittered attacks of the open and secret Catilinarians, esp. Clodius and his following: we have only to remember his exile, the destruction of his house and the confiscation of his property; pro Mil. 14. 30; p. Sest. 22. 49, Servavi igitur rempublicam discessu meo, iudices: caedem a vobis liberisque vestris, vastitatem, incendia, rapinas meo dolore luctuque *depuli* et unus bis rempublicam servavi, semel gloria, iterum aerumna mea (Cat. I. 12. 29, III. 12. 28). The conjunctive *redundarent* is the well-known conjunctive of quality and the consequences that follow from it in relative sentences [Madvig, § 364].

in his] as they have just been described, even now not ameliorated.

9 *asperitatibus rerum, &c.*] in spite of the many difficulties (hence trans-

diis nostris et quantum mihi vel fraus inimicorum vel causae amicorum vel res publica tribuet otii, ad scribèndum potissimum conferem; tibi vero, frater, neque hortanti deero neque roganti, nam neque auctoritate quisquam apud me plus valere te potest neque voluntate. Ac mihi repetenda est veteris cuiusdam memoriae non sane satis explicata recordatio, sed, ut arbitror, apta ad id, quod requiris, ut cognoscas quae viri omnium eloquentissimi clarissimique senserint de omni ratione dicendi. Vis enim, ut mihi saepe dixisti, quoniam, quae pueris aut adulescentulis nobis ex commentariolis nostris in-

inimicorum) and the want of leisure (because of the causae amicorum or other political business, respublica).

1 *obsequar studiis nostris*] in order to produce, in accordance with your wish, instead of that imperfect rhetorical exercise of my youth, a riper work which shall rest, not on an abstract theory, but on the basis of a rich experience.

6 *veteris cuiusdam memoriae*] This is the dialogue of the great orators at the Tusculan villa of Crassus; vetus, inasmuch as from this event which now only lives in recollection to the time when Cicero is writing these words, about a generation has elapsed. But it is also long, since Cic. in his younger years received from Cotta the account of those remarkable days at Tusculum. Hence the recollection of it which Cic. wishes to revive cannot be exact in detail, whilst Cotta himself, at the time, only communicated the general substance of the dialogue, according to its principal features (III. 4. 16). A delicate intimation, on the one hand, that the dialogue is not a pure fiction, which has no actual fact at the bottom of it; and on the other, that the whole artistic plan and form must be regarded as Cicero's free creation.

7 *apta ad id, quod requiris*] Quintus Cicero, who directed his attention more to what was practical, did not wish to know anything about the rhetoric of the schools, but only to learn the views of real orators and influential statesmen on the art of oratory. But to this the dialogue at Tusculum was especially fitted: for Crassus and Antonius were just such eloquentissimi clarissimique viri, and from their mouths Quintus would therefore listen to rhetorical discussions with the greatest pleasure. Besides, not only did the high position which the two masters, Crassus and Antonius, occupied in the history of Roman oratory completely coincide with Cicero's object, but also by means of the opposition between these two great orators Cicero was able to bring to a decision, in the most objective manner (so to speak) the precisely similar difference between his brother and himself, and thereby answer most thoroughly the cardinal question of the right relation between theory and practice.

10 *quae—exciderunt*] These are the still extant rhetoricorum libri duo, or, as they are generally called, the two books de inventione, which Cic. wrote probably in the 21st or 22nd year of his life.

11 *ex commentariolis*] out of the unimportant rhetorical school-essays, in which Cic. for the sake of his theoretical education in oratory, had

choata ac rudia exciderunt, vix hac aetate digna sunt et hoc usu, quem ex causis, quas diximus, tot tantisque consecuti sumus, aliquid eisdem de rebus politius a nobis perfectiusque proferri, solesque non numquam hac de re a me in disputationibus nostris dissentire, quod ego eruditissimorum hominum artibus eloquentiam contineri statuam, tu autem illam ab elegantia doctrinae segregandam putes et in quodam ingenii atque exercitationis genere

sketched out the main points of the rhetorical prescription (Quint. III. 6. 59, sunt enim velut regestae in hos commentarios, quos adulescens deduxerat, scholae), as hereafter Antonius calls his 'de ratione dicendi exilem libellum' (Brut. 44. 163), a commentarius (I. 48. 208, cf. I. 21. 94).

1 *inchoata*] because Cic. only treated of the chapter de inventione, and then, without proceeding to the remaining divisions of rhetoric, dropped the work; thus, not finished, incomplete, as the word is used de Off. III. 2. 10, of the portion of the famous painting of Apelles, quam A. *inchoatam* reliquisset, de Off. I. 43. 153; dial. de Oratt. c. 33. It is opposed to perfectus, Brut. 33. 126.

rudia] without the proper ripeness, which only experience gives; opposed to *politius*, something artistically more complete and finished.

exciderunt] as I. 21. 94, Antonius says of his libellus: me imprudente et invito excidit.

hac aetate] the maturer age of manhood in which Cic. then was. *aet.* and *usus*, II. 27. 117.

digna sunt] Sunt is wanting in the MSS. but is needful for the sense. Others supply *sint*, but by the use of the indicative (as in exciderunt) Cic. implies that he himself concurs in this sense of the deficiencies in this earlier production. [Lambinus, leaving this passage untouched, would read quaedam for quae above.]

2 *quas diximus*] Cat. maj. II. 38, causarum illustrium, quascumque defendi. From his speech pro Quinctio, in the year 89, to the speech in Pisonem, which was delivered just before the composition of the books de Oratore, Cic. was engaged in the most numerous and difficult cases, and his public oratorical activity (40 speeches are enumerated as filling within this period of 26 years, [Mr Ramsay gives the titles of 56, but some of these have completely perished]) had extended itself into all departments of eloquence.

5 *eruditissimorum hominum*] "of high culture in theoretical knowledge"; which rests again especially on the fundamental study of Greek literature (*prudentissimorum* which many MSS. give "of excellent practical insight," would not suit *eleg. doctr.*) I. 15. 67; 39. 180; 43. 191.

6 *artibus*] includes both scientific knowledge as opposed to mere ingenium, and also special truly artistic capabilities as opposed to exercitatio. Thus the two principal points of view for the whole subsequent exposition are given a priori: *the inadequacy of the usual school-rhetoric*, I. 5. 19 (hence opposed to exhaustive polemic) and *the maintenance of the artistic and scientific character of eloquence* as a τέχνη, and at the same time the necessity of a more general and higher scientific training for the orator, in opposition to those who would reduce the orator to a mere expert, and his art (as an ἄτεχνος τριβή) to a mere routine (II. 1. 5).

ponendam. Ac mihi quidem saepenumero in summos 6
homines ac summis ingeniis praeditos intuenti quaerendum esse visum est quid esset, cur plures in omnibus artibus quam in dicendo admirabiles exstitissent; nam quocumque te animo et cogitatione converteris, permultos excellentes in quoque genere videbis non mediocrium artium, sed prope maximarum. Quis enim est, qui, si 7
clarorum hominum scientiam rerum gestarum vel utilitate vel magnitudine metiri velit, non anteponat oratori imperatorem? Quis autem dubitet quin belli duces praestantissimos ex hac una civitate paene innumerabiles, in dicendo autem excellentes vix paucos proferre possimus? Iam vero consilio ac sapientia qui regere ac gubernare 8
rem publicam possent, multi nostra, plures patrum memoria atque etiam maiorum exstiterunt, cum boni perdiu nulli, vix autem singulis aetatibus singuli tolerabiles oratores invenirentur. Ac ne quis forte cum aliis studiis, quae reconditis in artibus atque in quadam varietate litte-

2 *Transition to a more exact statement of the subject, whose importance follows from the striking rarity of perfect orators in comparison with all other departments of human knowledge and ability* (2. 6—4. 16): *for the reason of this fact lies in nothing else, but the greatness and difficulty of the art of oratory itself* (4. 16—5. 19).

[*intueri* is used both with, and without a preposition, without distinction of meaning: cf. II. 21. 89, de Fin. I. 17. 57.]

6 *mediocrium*] From the Roman point of view poetry, music, grammar and the like were naturally of less importance (minora, leviora studia, I. 49. 212) than the practical activity of the statesman and general, Brut. I. 3. [But cf. Brut. 73. 256].

8 *clarorum hominum scientiam*] "if a man wishes to take as his measure for the knowledge of cl. hom.," *i.e.* for his personal judgment, whether any one belongs to the number of cl. hom. [But Kayser reads *excellentiam*.]

13 *iam vero*] "but further," I. 13. 58.

16 *singulis—singuli*] a reduplication in order to mark sharply thereby the distributive force, "scarcely one in one age,' I. 28. 128; Caes. B. G. IV. 20. Cf. Brut. 97. 333, Nonne cernimus vix singulis aetatibus binos oratores laudabiles constitisse?

17 *Ac ne quis*] After mentioning the two practical departments of the general and the statesman, Cicero proceeds to a comparison of the specially scientific or theoretic departments. Cf. I. 49. 210 sqq.

18 *reconditis in artibus*] Instances of mental activity, which are of a purely scientific abstract nature, and withdraw themselves from the publicity of actual life, Brut. II. 11. 44, Pericles primus adhibuit doctrinam,

rarum versentur, magis hanc dicendi rationem, quam cum imperatoris laude aut cum boni senatoris prudentia comparandam putet, qui convertat animum ad ea ipsa artium genera circumspiciatque, qui in eis floruerunt, quam multi sint, facillime, quanta oratorum sit semperque fuerit paucitas, iudicabit. Neque enim te fugit omnium laudatarum artium procreatricem quandam et quasi parentem eam, quam *φιλοσοφίαν* Graeci vocant, ab hominibus doctissimis iudicari; in qua difficile est enumerare quot viri quanta scientia quantaque in suis studiis varietate et copia fuerint, qui non una aliqua in re separatim elaborarint, sed omnia, quaecumque possent, vel scientia et pervestigatione

quae quamquam tum nulla erat dicendi, tamen ab Anaxagora physico eruditus exercitationem mentis a *reconditis* abstrusisque rebus ad causas forenses popularesque facile traduxerat. [Kayser, versantur].

1 *varietate litterarum*] "which are concerned with various departments of knowledge."

4 *quam multi sint*] placed thus at the end with intentional emphasis: for the question is not about the persons, but the *great number* of really distinguished men. The ordinary reading, convertat (without qui) circumspiciatque qui in eis floruerunt, quamque multi, sic facillime, etc., does not take this into consideration.

6 *laudatarum*] or optimae, praestantissimae, in opposition both to the base, mechanical occupations (artes illiberales, sordidae) and to the minora studia of the artes liberales or ingenuae.

7 *procreatricem*] Tusc. I. 26. 64, philosophia omnium mater artium, or, as it is called in de Fin. v. 3. 7, animum artium officina. Cf. Brut. 93. 322, philosophiam *matrem* omnium bene factorum beneque dictorum.

9 *in qua*] This use of the relative is common in strong opposition; "and *still* it is difficult *in this*," &c., cf. 58. 246; Brut. 29. 112.

11 *una aliqua in re*] "in some particular branch of knowledge." [*Unus aliquis* denotes a single, but not otherwise defined person; cf. ad unum aliquem confugiebant, Cic. Off. II. 12. 41.]

12 *possent*] because comprehenderint (like fuerint and elaborarint) is to be taken as conj. of the aor. perfect [the simple preterite].

scientia et pervestigatione] the activity of the philosopher is distinguished according to the sides that are directed to the *matter* of philosophy and the *process* of securing it (to which *inventio* corresponds with the orator), and there is in fact an evident reference to the opposition between the so-called dogmatic direction of the philosophical theory of perception (*e. g.* the Stoics) which aims at actual knowledge (scientia), and the aim of the New Academy at mere inquiry and search for truth (pervestigatio): *disserendi ratio* then gives the activity of the philosopher on its *formal* side, the philosophical expression of the *matter* in a dialectical sequence of thought (corresponding to the oratorical elocutio). [The MSS. read scientiae pervestigatione, which is preferable as pre-

vel disserendi ratione comprehenderint. Quis ignorat, ei, 10
qui mathematici vocantur, quanta in obscuritate rerum
et quam recondita in arte et multiplici subtilique ver-
sentur? quo tamen in genere ita multi perfecti homines
5 exstiterunt, ut nemo fere studuisse ei scientiae vehemen-
tius videatur, quin quod voluerit consecutus sit. Quis
musicis, quis huic studio litterarum, quod profitentur ei,
qui grammatici vocantur, penitus se dedit, quin omnem
illarum artium paene infinitam vim et materiem scientia
10 et cognitione comprehenderit? Vere mihi hoc videor 11
esse dicturus, ex omnibus eis, qui in harum artium libe-
ralissimis studiis sint doctrinisque versati, minimam co-
piam poëtarum egregiorum exstitisse: atque in hoc ipso
numero, in quo perraro exoritur aliquis excellens, si dili-
15 genter et ex nostrorum et ex Graecorum copia comparare
voles, multo tamen pauciores oratores quam poëtae boni
reperientur; quod hoc etiam mirabilius debet videri, quia 12
ceterarum artium studia fere reconditis atque abditis fon-
tibus hauriuntur, dicendi autem omnis ratio in medio

serving better the equipoise of the sentence; the genitive is a kind of *genitivus definitivus:* translate "by scientific research," &c. Cf. Madvig, § 286, and Cic. de Off. II. 5. 16].

3 *recondita*] as in § 8 above of the abstract science of mathematics, that *complex* science, which is so difficult both because of the contents which are hard to fathom, and on account of the abstract form and the clear, consecutive thinking which it demands. [In post-Aug. Latin *mathematici* are almost always *astrologers* (cf. Mr Mayor in Juv. XIV. 248), but at this time the word had not yet acquired such a limited meaning.]

7 *huic studio litterarum*] which is the province of those, who call themselves grammatici, pretty much what we call philology (just as at that time the grammarian Ateius used to call himself φιλόλογος). Their field was therefore Greek and Roman literature (τὰ γράμματα). For the explanation of the written monuments of the language such a comprehensive knowledge was needed, that Valerius Cato defined their task to be omnes posse solvere quaestiones. Since the time of L. Ælius Stilo these studies had been very popular (Suet. de Ill. Gramm. c. 3), hence *huic*, to the present or modern study of philology. Cf. § 193.

9 *scientia et cognitione.*] The former refers to materiem, the latter to *vim.*

15 *ex.....comparare voles*] if you wish to take a selection for the purposes of comparison.

19 *in medio posita*] in opposition to occulta "which lies open to all, is accessible to all" (Div. in Caecil. II. 33, atque ego haec, quae *in medio*

posita communi quodam in usu atque in hominum more et sermone versatur, ut in ceteris id maxime excellat, quod longissime sit ab imperitorum intellegentia sensuque disiunctum, in dicendo autem vitium vel maximum sit a volgari genere orationis atque a consuetudine communis sensus abhorrere. Ac ne illud quidem vere dici potest aut plures ceteres inservire aut maiore delectatione aut spe uberiore aut praemiis ad perdiscendum amplioribus commoveri. Namque ut omittam Graeciam, quae semper eloquentiae princeps esse voluit, atque illas om-

posita sunt, commemoro; sunt alia magis *occulta furta*).

1 *communi quodam in usu*] No one is excluded; it is in a certain measure the common property of all.

in hominum more et sermone] it is concerned with the whole circle of the manners and expressions of men, social intercourse and tone of conversation. de Off. II. 10. 35, Popularibus enim verbis est agendum et usitatis, cum loquimur de opinione populari.

2 *in ceteris*] sc. artibus, as for instance in philosophy. Acad. post. I. 7. 25, dialecticorum vero verba nulla sunt publica: suis utuntur: et id quidem commune omnium fere est artium.

3 *ab imperitorum intellegentia sensuque*] from the usual intelligence of laymen. [For illustrations of the usage of this last word, see Mr Sandys' note on Isocrates Paneg. § 44. The Bp. of Oxford recently said that his knowledge of law was only that of a layman.]

4 *vitium*] Or. 9. 30, Ipsae illae contiones (in Thucydides) ita multas habent obscuras abditasque sententias, vix ut intellegantur; quod est in oratione civili vitium vel maximum. Cf. II. 38. 159.

5 *a volgari genere orationis*] from the customary method of expression of the speech of the people. Quint. II. 16. 19, ex communi intellectu verbisque quibus utuntur omnes.

a consuetudine communis sensus] from the usual commonly prevailing point of view. II. 16. 68. [Cf. Heindorf in Hor. Sat. I. 3. 66, and Hamilton's Reid, p. 774.]

6 *Ac* .....] and it cannot even be said in explanation of this fact with truth.

7 *ceteris*] sc. artibus, which has perhaps fallen out after inservire.

8 *ac praemiis*] There is a threefold supposition rejected as baseless: 1) that more people are accustomed to devote themselves to the other arts and sciences, than to oratory; 2) that the other arts have a greater attraction for the majority; 3) that the prospects in the other arts are more favourable, and the rewards that may be expected from victory greater. Hence *ac* praemiis, not aut praemiis, for the praemia are precisely the substance of the spes, just as afterwards one is twice substituted for both; erant huic studio maxima exposita praemia, et amplissimis eloquentiae praepositis praemiis.

9 *Namque*] This is clearly the right reading instead of the intolerable and incorrect Atque. For the sentence does not introduce anything further, but evidently contains only the simple proof of the previous assertion.

nium doctrinarum inventrices Athenas, in quibus summa dicendi vis et inventa est et perfecta, in hac ipsa civitate profecto nulla umquam vehementius quam eloquentiae studia viguerunt. Nam posteaquam imperio omnium 14
5 gentium constituto diuturnitas pacis otium confirmavit, nemo fere laudis cupidus adulescens non sibi ad dicendum studio omni enitendum putavit; ac primo quidem totius rationis ignari, qui neque exercitationis ullam viam neque aliquod praeceptum artis esse arbitrarentur, tantum,
10 quantum ingenio et cogitatione poterant, consequebantur. Post autem auditis oratoribus Graecis cognitisque eorum litteris adhibitisque doctoribus incredibili quodam nostri homines dicendi studio flagraverunt. Excitabat eos mag- 15
nitudo ac varietas multitudoque in omni genere causarum,

2 *in hac ipsa civitate*] Or. 41. 141, Nam quis unquam dubitavit, quin in re publica nostra primas eloquentia tenuerit semper urbanis pacatisque rebus, secundas iuris scientia?

4 *imperio omnium gentium constituto*] i. e. by the victory over Carthage and the third world-monarchy, the Macedonian Greek, in the middle of the second century before Christ, at which time also occurred the epoch-making embassy of the three Greek philosophers to Rome. [Zama, 202; Cynoscephalae, 197; Magnesia, 190; Pydna, 168, the mission of Carneades, Diogenes, and Critolaus, 157; the capture of Carthage and Corinth, 146.]

5 *diuturnitas pacis*] § 30; Brut. 12. 45 Nec enim in constituentibus rempublicam nec in bella gerentibus nec in impeditis ac regum dominatione devinctis nasci *cupiditas dicendi* solet; pacis est comes otiique socia et jam bene constitutae civitatis quasi alumna quaedam eloquentia.

7 *totius rationis ignari*] without any theoretical knowledge whatever.

8 *viam*] a usual methodical course. Brut. 12. 46.

10 *cogitatione*] "by individual reflection," without instruction.

11 *Post*] Cic. gives therefore three sources of rhetorical knowledge: 1) the discourses of Greek orators themselves; 2) the study of the literature of Greek eloquence; 3) the theoretical instruction of Greek rhetoricians.

13 *magnitudo sc.*] This was in consequence of the quaestiones perpetuae [cf. Dict. Ant. & Mommsen, III. p. 73], the establishment of special standing courts of justice about the middle of the second century before Christ. From that time the young Romans of eminence began their political career by taking part as *patroni* in various cases. For their training in the genus deliberativum [see Cope's Introduction to Aristotle's Rhetoric, p. 119] the tribunician proposals of laws that had multiplied since that time and the debates connected with them furnished opportunities in abundance. So the practice of life was added to private studies with animating and enlivening effect.

ut ad eam doctrinam, quam suo quisque studio adsecutus esset, adiungeretur usus frequens, qui omnium magistrorum praecepta superaret; erant autem huic studio maxima, quae nunc quoque sunt, exposita praemia vel ad gratiam vel ad opes vel ad dignitatem; ingenia vero, ut multis rebus possumus iudicare, nostrorum hominum multum ceteris hominibus omnium gentium praestiterunt. Quibus de causis quis non iure miretur ex omni memoria aetatum, temporum, civitatum tam exiguum oratorum numerum inveniri? 16

Sed enim maius est hoc quiddam, quam homines opinantur, et pluribus ex artibus studiisque collectum. Quid enim quis aliud in maxima discentium multitudine, summa magistrorum copia, praestantissimis hominum ingeniis, infinita causarum varietate, amplissimis eloquentiae propositis praemiis esse causae putet, nisi rei quandam incredibilem magnitudinem ac difficultatem? Est enim et 17

3 *superaret*] The thought, which is quite independent, is by a very common kind of attraction interwoven with the thought of the nearest sentence (ut...adjungeretur), hence the impf. conj. as below § 91, quos artis illius inventores et principes fuisse *constaret*. Brut. 2. 6, quod *fuisset* quasi theatrum illius ingenii.

4 *exposita praemia*] like the prizes of victory for the combatants. Brut. 49. 182, volo enim sciri, in tanta et tam vetere republica *maximis praemiis eloquentiae propositis* omnes cupisse dicere, non plurimos ausos esse, potuisse paucos. [Where notice the *chiasmus* in the last two clauses.]

5 *ad opes*] in regard to political influence, and especially the means to make oneself a power in the State, *ad dignitatem*, with reference to personal reputation (which a man enjoys in consequence of his position and the recognition of his character).

ingenia, &c.] The over-rating of the Roman nationality comes out still more forcibly in comparison with other nations, especially the Greeks. Tusc. I. 1. 1, Meum semper judicium fuit omnia nostros aut invenisse per se sapientius quam Graecos aut accepta ab illis fecisse meliora. But it is true that as compared with the Greeks of that time, the Romans were unquestionably superior in freshness of intellect and productiveness. [For the slight irregularity of construction (ceteris hominibus for ceterorum hominum ingeniis) cf. Madvig, § 280 obs. 2, and Ellendt in loc.]

13 *in*] despite of all the previously mentioned circumstances, which very much promote the art of oratory, and according to which one would have expected the opposite of this result.

17 *difficultatem*] § 128; Brut. 6. 25, Hoc vero sine ulla dubitatione confirmaverim (eloquentiam) rem

scientia comprehendenda rerum plurimarum, sine qua verborum volubilitas inanis atque irridenda est, et ipsa oratio conformanda non solum electione, sed etiam constructione verborum, et omnes animorum motus, quos hominum generi rerum natura tribuit, penitus pernoscendi, quod omnis vis ratioque dicendi in eorum, qui audiunt, mentibus aut sedandis aut excitandis expromenda est. Accedat eodem oportet lepos quidam facetiaeque et eruditio libero digna celeritasque et brevitas et respondendi et lacessendi subtili venustate atque urbanitate coniuncta. Tenenda praeterea est omnis antiquitas exemplorumque

unam esse omnium difficillimam. Quibus enim ex quinque rebus constare dicitur, eorum una quaeque est ars ipsa magna per sese. Quare quinque artium concursus maximarum quantam vim quantamque difficultatem habent existimari potest.

§ 17 This and the following section contain the arrangement or the main features of that which is to be accomplished in the further exposition.

2 *irridenda.*] §§ 48 and 50.

oratio] the verbal expression, or the arrangement of the style, the formal side opposed to the just mentioned material, *conformanda* refers to the artistic shape given.

3 *constructione verborum*] by the arrangement of words and the building up of periods.

4 *omnes animorum motus*] Cic. often recurs afterwards to this demand for a thorough psychological knowledge for the execution of the chief functions of an orator, movere and delectare, §§ 53. 60. 87.

6 *vis ratioque*] "essence and aim or object."

mentibus] §§ 53. 165.

7 *expromenda*] (far more expressive than *exprimenda*) is *to display itself in its full strength*, to come to light, as in Or. 36. 125, cum vero ea causa inciderit in qua vis eloquentiae possit *expromi*, tum se latius fundet orator, tum reget et flectet animos et sic afficiet, ut volet, id est ut causae natura et ratio temporis postulabit. Brut. 7. 25, quanta *vis* sit ejus (sc. eloquentiae) *expromere*.

8 *lepos, &c.*] The gift of spirited humour, and witty ideas, which Cicero himself possesses in rich measure, §§ 159. 213. II. 54. 219.

eruditio] is distinguished from the above-mentioned scient. rerum plur. the richness in positive knowledge, and denotes rather the higher (formal) training gained by attention to literature.

9 *libero*] without homine, as afterwards § 72, in Pis. 10. 22, quis te, agentem aliquid, quod esset *libero* dignum, vidit? de Fin. v. 17. 47.

respondendi et lacessendi] technical expressions for an orator's defence and attack.

10 *subtili venustate*] without becoming coarse and awkward; subtilis venustas is the graceful demeanour, urbanitas the good tone, within which attack and reply should be restrained.

11 *Tenenda praeterea*] (*est* is better omitted with the best MSS.) Or. 34. 120, Jus civile teneat, quo egent causae forenses cotidie. Cognoscat etiam rerum gestarum et memoriae veteris ordinem. Commemoratio au-

vis, neque legum ac iuris civilis scientia neglegenda est. Nam quid ego de actione ipsa plura dicam? quae motu corporis, quae gestu, quae voltu, quae vocis conformatione ac varietate moderanda est; quae sola per se ipsa quanta sit, histrionum levis ars et scena declarat; in qua cum omnes in oris et vocis et motus moderatione elaborent, quis ignorat quam pauci sint fuerintque, quos animo aequo spectare possimus? Quid dicam de thesauro rerum omnium, memoria? quae nisi custos inventis cogitatisque rebus et verbis adhibeatur, intellegimus omnia, etiam si praeclarissima fuerint in oratore, peritura. Quam 19
ob rem mirari desinamus, quae causa sit eloquentium paucitatis, cum ex eis rebus universis eloquentia constet, in quibus singulis elaborare permagnum est, hortemurque potius liberos nostros ceterosque, quorum gloria nobis et dignitas cara est, ut animo rei magnitudinem complectantur neque eis aut praeceptis aut magistris aut exercitationibus, quibus utuntur omnes, sed aliis quibusdam se id, quod expetunt, consequi posse confidant. Ac mea qui- 6
dem sententia nemo poterit esse omni laude cumulatus 20
orator, nisi erit omnium rerum magnarum atque artium scientiam consecutus. Etenim ex rerum cognitione efflo-

tem antiquitatis exemplorumque probatio summa cum delectatione et auctoritatem orationi affert et fidem.

5 *levis*] trifling; cf. pro Arch. 5. 10, where the scenici artifices are reckoned among the humili aliqua arte praeditis.

7 *animo aequo*] "with contentment."

8 *thesauro*] Rhet. ad Her. III. 16. 28, nunc ad *thesaurum* inventorum atque ad omnium patium rhetoricae *custodem* memoriam transeamus. Brut. 61. 219, hac parte animi, quae est custos ceterarum ingenii partium. [cf. Madvig, § 211. b. obs. 2.]

3 *Request to keep this large, almost unbounded department of the art of oratory in mind, and determination of the limits, as fixing the aim and character of the following exposition,* (5. 19—7. 24).

11 *Quam ob rem*, &c. cf. § 128.

18 *aliis quibusdam*] §§ 109 and 111. What this is Cicero immediately afterwards explains, a universal knowledge and training.

19 *confidant*] pregnant: that they are not to *fancy* that they can reach their goal along the customary path of a mere school-rhetoric, but much rather *gain the conviction* that, &c.

21 *rerum magnarum*] § 214.

artium] Plat. Phaedr. p. 269. E. ὅσαι μεγάλαι τῶν τεχνῶν.

22 *ex rerum cognitione*] Cf. III.

rescat et redundet oportet oratio. Cui nisi subest res ab oratore percepta et cognita, inanem quandam habet elocutionem et paene puerilem. Neque vero ego hoc tantum 21
oneris imponam nostris praesertim oratoribus in hac tanta occupatione urbis ac vitae, nihil ut eis putem licere nescire, quamquam vis oratoris professioque ipsa bene dicendi hoc suscipere ac polliceri videatur, ut omni de re, quaecumque sit proposita, ornate ab eo copioseque dicatur. Sed quia non dubito quin hoc plerisque immensum infi- 22
nitumque videatur, et quod Graecos homines non solum ingenio et doctrina, sed etiam otio studioque abundantes partitionem quandam artium fecisse video neque in universo genere singulos elaborasse, sed seposuisse a ceteris dictionibus eam partem dicendi, quae in forensibus dis-

30. 121, and Dial. de Orat. c. 30, ex multa eruditione et plurimis artibus et omnium rerum scientia exundat et exuberat illa admirabilis eloquentia.

1 *efflorescat*] II. 78. 319.

cui nisi subest] § 50. *Oratio* and *res*, form (expression of thoughts) and substance, are sharply opposed to each other as § 17; Orat. 22. 72, sine re nulla vis verbi est. Cic. recurs again and again to this precept that ought to be laid well to heart. §§ 48. 54; Brut. 6. 23. In this connection the *oratio* (λόγος) is related to elocutio (λέξις), as speech or words to this arrangement in style, so that the phrase here chosen by Cicero, oratio ... inanem quandam habet elocutionem corresponds to the Greek, ὁ λόγος (se. ᾧ μὴ ὑπόκειται χρῆμα) κενήν τινα ἔχει λέξιν καὶ μειρακιώδη.

5 *occupatione*] in the many claims that public life in Rome made on the orator.

6 *vis oratoris*] the rigorous conception and vocation of an orator.

7 *suscipere ac polliceri*] or as § 103, suscipere ac profiteri; § 116; II. 36. 153, the constant intimation of a definite professional activity on the part of those who make a profession of anything.

8 *ornate ... copioseque*] therefore in a satisfactory manner as regards both form and substance.

11 *otio studioque*] p. Arch. 2. 3, propter otium (the retirement from public life) ac studium (scientific activity).

abundantes] The Graecum otium became proverbial, as contrasted with the numerous occupations of the Roman statesman. Or. 30. 108, nemo enim orator tam multa ne in Graeco quidem otio scripsit, quam multa sunt nostra.

12 *artium*] i. e. as is evident from what follows, the several branches of Rhetoric according to their division into the γένος δικανικόν, συμβουλευτικόν, and ἐπιδεικτικόν. [Cf. Cope's Introduction to Aristotle's Rhetoric, p. 118. sqq.] Therefore *in universo genere.*] sc. artis oratoriae, the universal province of oratory, III. 6. 25.

14 *dictionibus*] The genera dicendi are here called dictiones, because with each of them there is connected a special dictio, a peculiar kind of style. [Ar. Rhet. III. c. 12; and Cope u. s. p. 323 sqq.].

in forensibus disceptationibus] Re-

ceptationibus iudiciorum aut deliberationum versaretur, et id unum genus oratori reliquisse; non complectar in his libris amplius, quam quod huic generi re quaesita et multum disputata summorum hominum prope consensu est tributum; repetamque non ab incunabulis nostrae 23 veteris puerilisque doctrinae quendam ordinem praeceptorum, sed ea, quae quondam accepi in nostrorum hominum eloquentissimorum et omni dignitate principum disputatione esse versata; non quod illa contemnam, quae Graeci dicendi artifices et doctores reliquerunt, sed cum illa pateant in promptuque sint omnibus, neque ea interpretatione mea aut ornatius explicari aut planius exprimi possint, dabis hanc veniam, mi frater, ut opinor, ut eorum, quibus summa dicendi laus a nostris hominibus concessa est, auctoritatem Graecis anteponam.

Cum igitur vehementius inveheretur in causam prin- 7 24

gard should be paid them by preference to public eloquence in the forum (id unum genus, to the exclusion of deliberative eloquence in the senate and the whole *γένος ἐπιδεικτικὸν* as pompae quam pugnae aptius, gymnasiis et palaestrae dicatum, Or. 13. 42), which is again either judicial, or (hence rightly aut, not ac) deliberative in the assemblies of the people. Still there is nothing to prevent something being said on occasion also of the other branch of the genus delib. (in the senate) and of the genus demonstr.

5 *ab incunabilis*] i. e. the first the elementary theoretical instruction in Rhetoric by a Greek rhetor. III. 10. 38. 13, 48; Or. 13. 42, non alienum fuit de oratoris quasi incunabulis dicere.

7 *quondam*] goes with esse versata. *accepi* § 26. III. 4. 16.

nostrorum hominum] opposed to Greek rhetoricians, *eloquentissimorum* opposed to men of mere theory. *omni dignitate principum*, who had enjoyed all dignities and offices, and thus had a life rich in great experiences behind them, in opposition to mere doctrinaires.

9 *esse versata*] thus Cicero is not going to state abstract theories, but only such enquiries as would really be set on foot from the point of view of a practical orator and statesman.

13 *dabis hanc veniam*] with gentle irony, for such a method of treatment must have been just right for Quintus Cicero, who was certainly no friend to theory.

15 *auctoritatem*] the approved judgment upon the art of oratory.

Graecis] cf. ceteris hominibus, § 15.

4 *Introduction to the actual dialogue at the Tusculan villa of L. Licinius Crassus* (the time, persons, occasions, and preparation), c. 7. 24—c. 8.

16 *vehementius inveheretur*] intentionally brought into prominence, to shew with a couple of strokes the whole political situation in which the Roman republic then found itself.

principum] the conservative ruling

cipum consul Philippus Drusique tribunatus pro senatus auctoritate susceptus infringi iam debilitarique videretur, dici mihi memini ludorum Romanorum diebus L. Crassum quasi colligendi sui causa se in Tusculanum contulisse; venisse eodem, socer eius qui fuerat, Q. Mucius dicebatur et M. Antonius, homo et consiliorum in re publica socius et summa cum Crasso familiaritate coniunctus. Exierant autem cum ipso Crasso adulescentes et Drusi maxime familiares et in quibus magnam tum spem maiores natu dignitatis suae collocarent, C. Cotta, qui tum tribunatum

party (de Off. II. 22. 77, in principibus et remp. gubernantibus), the optimates.

1 *consul*] from whom, in consequence of his official position, one would have expected precisely the reverse, III. 1. 4: by the position of in c. pr. and consul close to each other the unnatural character of this conduct of the consul is brought into prominence.

[*pro senatus auctoritate susceptus.* Drusus, a man of high aristocratical connexions (son of the champion of the senate against C. Gracchus), devoted himself to the enfranchisement of the Italians, and at first carried a large majority of the senate with him; but after passing his laws, they fell away from him, and repealed them. Philippus was a representative of the popular party at Rome, who were afraid of being swamped by the admission of the Italians to the franchise, and so resolutely resisted the proposals of Drusus and the senate.]

2 *infringi debilitarique*] § 121; de Dom. 15. 40, tuo praecipitante iam et debilitato tribunatu.

3 [*ludi Romani.* The ludi magni and maximi held since the time of the kings in honour of the three deities of the Capitoline, Jupiter, Juno, and Minerva: the task of superintending them devolved upon the curule aediles (§ 57). They lasted from Sept. 4 to Sept. 12, and were terminated by five days' sports in the circus. During the games all public business ceased, and rich statesmen were accustomed to visit their estates in the country. This was the last occasion on which Crassus did so: for on the 13th of Sept. was held the meeting of the senate, at which he over-exerted himself so much as to bring on a fatal attack of pleurisy (III. 1. 2 and 6).] P.

4 *quasi*] for the real cause was his dissatisfaction with the political circumstances of the time.

in Tusc.] in the charming hilly country round Tusculum, where many distinguished nobles had their country-seats. [See Forsyth's Life of Cicero, pp. 61—63 (2nd ed.).]

5 *fuerat*] Hence this daughter of Mucius Scaevola, the augur, who had been married to Crassus, was no longer living. Cf. Nep. Eum. 6, Olympius mater qui *fuerat* Alexandri (tum mortui) and pro Sest. 3. 6, ademit Albino soceri nomen mors filiae. Still the connexion between the two men is afterwards naturally enough denoted by the terms socer and gener, § 35, § 242, II. 6. 22, III. 18. 68.

6 *consiliorum socius*] pro Planc. 2. 5, neque est ullum certius amicitiae vinculum, quam consensus et *societas consiliorum* et voluntatum.

10 *dignitatis suae*] that at some future time they would take up their stand on the side of the optimates,

plebis petebat, et P. Sulpicius, qui deinceps eum magistratum petiturus putabatur. Hi primo die de temporibus 26
deque universa re publica, quam ob causam venerant, multum inter se usque ad extremum tempus diei collocuti
5 sunt. Quo quidem sermone multa divinitus a tribus illis consularibus Cotta deplorata et commemorata narrabat, ut nihil incidisset postea civitati mali, quod non impendere illi tanto ante vidissent. Eo autem omni sermone 27
confecto, tantam in Crasso humanitatem fuisse, ut, cum
10 lauti accubuissent, tolleretur omnis illa superioris tristitia sermonis eaque esset in homine iucunditas et tantus in iocando lepos, ut dies inter eos curiae fuisse videretur, convivium Tusculani. Postero autem die, cum illi maiores 28
natu satis quiessent et in ambulationem ventum esset,
15 dicebat: tum Scaevolam duobus spatiis tribusve factis dixisse: 'cur non imitamur, Crasse, Socratem illum, qui est in Phaedro Platonis? Nam me haec tua platanus admonuit, quae non minus ad opacandum hunc locum patulis est diffusa ramis, quam illa, cuius umbram secutus

and work for the conservative interests, a hope in which, at least as regards Sulpicius, they were bitterly disappointed.

1 *petebat*] in the year 91 for the year 90.

deinceps] in the year 89 for the year 88. [The measures proposed by Sulpicius in this tribunate in the Marius interest gave rise to the civil war between Sulla and Marius].

2 *primo die*] the first day was entirely devoted to politics.

de temporibus] especially the unhappy political circumstances.

5 *divinitus*] as similarly afterwards of Socrates § 28 and § 49 of Plato, § 227 of Crassus; as if by a higher divine inspiration (§ 202), here also with prophetic prescience.

9 *humanitatem*] courtesy, delicacy of conduct towards his guests.

10 *tristitia*] frequently joined with severitas, Lael. 18. 66, the melancholy tone of the conversation that had preceded,—opposed to hilarity, III. 47. 197.

11 *iucunditas*] a genial, pleasant character, that shews itself in a jovial mood and sprightly conversation.

12 *dies*] The day up to the time of the evening meal bore the character of an earnest day's sitting in the senate-house, the *convivium*, the time during which they were sitting at table, corresponded to the charming villa in which they were dining.

14 *in ambulationem*] *εἰς περίπατον*, for the usual morning walk, either in the open air or under beautiful colonnades.

15 [*spatiis*, &c., "having taken two or three turns."]

19 *patulis diffusa ramis*] "which spreads out its branches into a wide leafy roof."

est Socrates, quae mihi videtur non tam ipsa aquula, quae describitur, quam Platonis oratione crevisse, et quod ille durissimis pedibus fecit, ut se abiiceret in herba atque ita illa, quae philosophi divinitus ferunt esse dicta, loqueretur, id meis pedibus certe concedi est aequius.' Tum Crassum: 29 'immo vero commodius etiam;' pulvinosque poposcisse et omnes in eis sedibus, quae erant sub platano, consedisse dicebat.

Ibi, ut ex pristino sermone relaxarentur animi om- 8 nium, solebat Cotta narrare Crassum sermonem quendam

illa] See the beautiful picture in Plat. Phaedr. p. 229. ["Do you see that very lofty plane-tree?" says Phaedrus; "there is shade and a gentle breeze, and grass to sit down on, or, if we wish, to lie upon;" and afterwards Socrates says (p. 230 B), "By Hera, the resting-place is beautiful; for the plane-tree itself is wide-spreading (ἀμφιλαφής = patulis diffusa ramis) and lofty, and the height and shadiness of the agnus are delightful, and how it is in the perfection of its bloom, so as to make the spot the most fragrant possible! The spring too of very cold water, judging by my foot, flows from under the plane-tree most charmingly..... how lovely and very sweet is the fragrance of the place: it answers summer-like and shrill to the choir of the cicadas. But what is most exquisite of all is the grass, because it grows on a gentle slope in sufficient abundance for one who rests his head on it to be completely comfortable."]

1 *aquula*] the translation of ὑδάτιον used in Phaedr. 229 B of the brook Ilissus: χαριέντα γοῦν καὶ καθαρὰ καὶ διαφανῆ τὰ ὑδάτια φαίνεται. Cicero means the above-mentioned πηγή at the foot of the plane-tree.

[*videtur* "The plane seems to have disappeared in Cicero's time: as I understand him he doubts its ever having existed (de Orat. I. § 28). This, one hopes, was an unreasonable sally of academic scepticism: for no tree was more prized by the Athenians than the plane, which was planted even in the agora, and magnificent specimens of which are still to be found in other parts of Greece, though the tree has ceased to exist in the neighbourhood of modern Athens." Dr Thompson in Phaedr. l. c.]

3 *durissimis pedibus*] because he always went without sandals, ἀεὶ ἀνυπόδητος ὤν. Phaedr. p. 229, Xen. Mem. I. 6. 2.

ut se abiiceret] Phaedr. p. 230 E, νῦν οὖν ἐν τῷ παρόντι δεῦρ' ἀφικόμενος ἐγὼ μέν μοι δοκῶ κατακεῖσθαι. *in herba*, II. 71. 287.

5 *meis*] which are weak with age and not so hardened.

7 *consedisse*] Brut. 6. 24, sed quo facilius sermo explicetur, sedentes, si videtur, agamus. Cum idem placuisset illis, tum in pratulo propter Platonis statuam consedimus. *dicebat* sc. Cotta.

Tractatio, cc. 8—62.

10 *solebat*] so readily did Cotta turn the conversation upon these memorable days.

Crassus the master commences to speak before all others, and begins with the praise of eloquence, 8. 30—9. 35 (cf. § 202; II. 9. 35).

[aequales = συνήλικες, "of the same age;" as often. Cf. Cato Maj. 4. 10, and Brut. 48. 179. P. Arbius, meus fere aequalis.]

de studio dicendi intulisse. Qui cum ita esset exorsus: non sibi cohortandum Sulpicium et Cottam, sed magis 30
utrumque collaudandum videri, quod tantam iam essent facultatem adepti, ut non aequalibus suis solum antepo-
5 nerentur, sed cum maioribus natu compararentur; 'neque vero mihi quicquam' inquit 'praestabilius videtur, quam posse dicendo tenere hominum coetus, mentes adlicere, voluntates impellere, quo velit, unde autem velit, deducere: haec una res in omni libero populo maximeque in
10 pacatis tranquillisque civitatibus praecipue semper floruit semperque dominata est. Quid enim est aut tam admi- 31
rabile, quam ex infinita multitudine hominum exsistere unum, qui id, quod omnibus natura sit datum, vel solus vel cum paucis facere possit? aut tam iucundum cognitu
15 atque auditu, quam sapientibus sententiis gravibusque verbis ornata oratio et polita? aut tam potens tamque magnificum, quam populi motus, iudicum religiones, senatus gravitatem unius oratione converti? Quid tam porro 32
regium, tam liberale, tam munificum, quam opem ferre
20 supplicibus, excitare adflictos, dare salutem, liberare periculis, retinere homines in civitate? quid autem tam necessarium, quam tenere semper arma, quibus vel tectus ipse esse possis vel provocare improbos vel te ulcisci lacessitus? Age vero, ne semper forum, subsellia, rostra curiamque

6 *praestabilius*] de Inv. I. 4 sqq., Quint. II. 16. 1 sqq.

8 *velit*] the common subject lies in the preceding infinitive (posse); hence there is no need for the alteration into *velis* [cf. Madvig. § 385 b. obs. 2].

13 *solus*] § 116. *cum paucis*, II. 46. 193. *facere* with especial emphasis, "actually exercise."

17 *religiones*] the scruples of the judges, who in their decisions are bound to the most rigorous forms.

18 *gravitatem*] the earnest, immovable, firm determination of the senate, which does not so readily allow itself to be drawn aside from principles that it has once adopted.

20 *excitare afflictos*] § 169.

23 [The best MSS. have for improbos *integros;* hence Pid. (in App. Crit.) thinks that the original reading was, quibus vel *integer intactusque*, &c. Heinrichsen and Ellendt with more probability consider integros a corruption for integer, a gloss upon tectus, which had found its way into the text.]

24 *age vero*] a formula used in a lively elevation of tone during the course of a speech, II. 12. 51.

meditere, quid esse potest in otio aut iucundius aut magis proprium humanitatis, quam sermo facetus ac nulla in re rudis? Hoc enim uno praestamus vel maxime feris, quod colloquimur inter nos et quod exprimere dicendo sensa possumus. Quam ob rem quis hoc non iure miretur sum- 33
meque in eo elaborandum esse arbitretur, ut, quo uno homines maxime bestiis praestent, in hoc hominibus ipsis antecellat? Ut vero iam ad illa summa veniamus, quae vis alia potuit aut dispersos homines unum in locum congregare aut a fera agrestique vita ad hunc humanum cultum civilemque deducere aut iam constitutis civitatibus leges iudicia iura describere? Ac ne plura, quae 34
sunt paene innumerabilia, consecter, comprehendam brevi: sic enim statuo, perfecti oratoris moderatione et sapientia non solum ipsius dignitatem, sed et privatorum plurimorum et universae rei publicae salutem maxime contineri. Quam ob rem pergite, ut facitis, adulescentes, atque in id studium, in quo estis, incumbite, ut et vobis honori et amicis utilitati et rei publicae emolumento esse possitis.'

9

Tum Scaevola comiter, ut solebat, 'cetera' inquit 35
'adsentior Crasso, ne aut de C. Laelii soceri mei aut de huius generi aut arte aut gloria detraham; sed illa duo, Crasse, vereor ut tibi possim concedere: unum quod ab oratoribus civitates et initio constitutas et saepe conservatas esse dixisti, alterum, quod remoto foro, contione,

forum, subsellia, &c.] for these were the places for the negotium which the following otium is opposed: *forum* and *subsellia* refer to the genus iudiciale, *rostra* and *curiam* to the deliberativum.

3 *Hoc enim*, &c.] de Inv. I. 4. 5, Ac mihi quidem videntur homines—hac re maxime bestiis praestare, quod loqui possunt. Quare praeclarum mihi quiddam videtur adeptus is, qui qua re homines bestiis praestent, ea in re hominibus ipsis antecellat.

[Cf. Isocrates Nicocl. § 5 sqq. and Paneg. § 48].

10 *ad hunc*] to the present condition of human and political culture.

20 *Scaevola's two-fold objection* (c. 9. 35—11. 45).

24 *saepe*] *i.e.* as often as the security of the state had to be fortified by laws and ordinances (§§ 33, 36), which was not only necessary soon after the foundation, but often recurs in the course of the political development.

25 *remoto foro*] putting on one side (*i.e.* without any regard to) the spe-

iudiciis, senatu statuisti oratorem in omni genere sermonis et humanitatis esse perfectum. Quis enim tibi hoc con- 36
cesserit aut initio genus hominum in montibus ac silvis dissipatum non prudentium consiliis compulsum potius quam disertorum oratione delenitum se oppidis moenibusque saepsisse? aut vero reliquas utilitates aut in constituendis aut in conservandis civitatibus non a sapientibus et fortibus viris, sed a disertis ornateque dicentibus esse constitutas? An vero tibi Romulus ille aut pastores 37
et convenas congregasse aut Sabinorum connubia coniunxisse aut finitimorum vim repressisse eloquentia videtur, non consilio et sapientia singulari? Quid? in Numa Pompilio; quid? in Servio Tullio, quid? in ceteris regibus, quorum multa sunt eximia ad constituendam rem publicam, num eloquentiae vestigium apparet? quid? exactis regibus, tametsi ipsam exactionem mente, non lingua perfectam L. Bruti esse cernimus, sed deinceps omnia nonne plena consiliorum, inania verborum videmus? ego vero si velim et nostrae civitatis exemplis uti et 38
aliarum, plura proferre possim detrimenta publicis rebus, quam adiumenta per homines eloquentissimos importata; sed ut reliqua praetermittam, omnium mihi videor, exceptis, Crasse, vobis duobus, eloquentissimos audisse Ti.

cial field of oratorical activity, of judicial (foro, iudiciis), and deliberative (contione, senatu) eloquence. Cf. §§ 32, 48, 73; III. 17. 63.

1 *in omni genere*] in all kinds of representations in words and higher training, § 256, II. 10.40.

3 *initio*] according to a very general conception of the establishment of political unity. de inv. I. 2. 2, Quo tempore quidam, *magnus* videlicet vir et *sapiens—dispersos* homines in agris et in tectis silvestribus abditos ratione quadam *compulit* unum in locum et congregavit et eos in unamquamque rem inducens *utilem* et honestam, primo propter insolentiam reclamantes (deinde propter rationem atque orationem studiosius audientes) ex feris et immanibus mites reddidit et mansuetos. Cf. pro Sest. 42, 91.

6 *utilitates*] useful political regulations.

16 *mente*] Brut. 14. 53, Quis enim putet *celeritatem ingenii* L. Bruto ille—defuisse?—qui summam prudentiam simulatione stultitiae texerit.

18 [*inania verborum*, gen. quantitatis. Cf. Ov. Met. XIII. 488, corpus complexa animae tam fortis inane.]

20 *detrimenta*] de Inv. I. 1, Nam cum et nostrae reipublicae *detrimenta* considero et maximarum civitatum

et C. Sempronios, quorum pater, homo prudens et gravis, haudquaquam eloquens, et saepe alias et maxime censor saluti rei publicae fuit. Atque is non adcurate quadam orationis copia, sed nutu atque verbo libertinos in urbanas tribus transtulit, quod nisi fecisset, rem publicam, quam nunc vix tenemus, iam diu nullam haberemus. At vero eius filii diserti et omnibus vel naturae vel doctrinae praesidiis ad dicendum parati, cum civitatem vel paterno consilio vel avitis armis florentissimam accepissent, ista praeclara gubernatrice, ut ais, civitatum eloquentia rem publicam dissipaverunt. Quid? leges veteres moresque maiorum; quid? auspicia, quibus et ego et tu, Crasse, 10 39

veteres animo calamitates colligo, non minimum video per disertissimos homines *invectam* partem incommodorum.

1 [*Sempronios*, sc. Gracchos] [*quorum pater*, Ti. Sempronius Gracchus was censor in 169 with C. Claudius Pulcher: both censors exercised their powers with great rigour and were accused by the tribunes before the people at the close of their period of office, but the popular Gracchus standing by his unpopular colleague, both were acquitted. Cf. Liv. XLIII. cc. 14—16. The most important act of this censorship was the confinement of the freedmen to one of the four city-tribes chosen by lot, a fact which is mentioned below, but not quite correctly. (See Ramsay's Roman Antiquities p. 102.) Originally confined to the four city-tribes, the freedmen had been distributed among all the tribes by App. Claudius B. C. 317, restored to their former position by Q. Fabius Rullianus in 304, and again in 220.]

4 *nutu*] by the resoluteness of his will, without using many words about it. § 194, auctoritate nutuque legum. Liv. XXXIV. 62. 18, nam ni ita esset, unus Scipio vel notitia rei vel auctoritate—finire nutu disceptationem potuisset.

5 *quam nunc vix tenemus*] in view of the political circumstances of the time, especially that scandalous condemnation of Rutilius Rufus, quo iudicio convulsam penitus scimus rempublicam [because of the revelation it afforded of the utter corruptness of the equestrian order, from whom at this time the iudices were taken. Cf. Mommsen, III. 219].

8 *paterno consilio*] by the wise policy of their father in time of peace.

9 *avitis armis*] by the exploits in war of their maternal grandfather, P. Cornelius Scipio Africanus Maior, the victor of Zama [whose daughter Cornelia had married Ti. Gracchus].

10 *praeclara*] evidently ironical; hence *ut ais*, according to your opinion.

11 *dissipaverunt*] refers to the well-known agrarian laws of the Gracchi. Phil. II. 3. 6, cum tu reliquias rei-publicae [the state-treasure (cf. Halm's note in Mr. Mayor's edition)] dissipavisses.

leges veteres moresque maiorum] are put forward as the sources alike of divine law (fas) under which fall the auspicia, religiones and caerimoniae, and of human law (ius).

12 *et ego et tu*] I, who, certainly do not belong to the number of the eloquentes, as well as you, the

cum magna rei publicae salute praesumus; quid? religiones et caerimonia; quid? haec iura civilia, quae iam pridem in nostra familia sine ulla eloquentiae laude versantur, num aut inventa sunt aut cognita aut omnino ab oratorum genere tractata? equidem et Ser. Galbam memoria teneo divinum hominem in dicendo et M. Aemilium Porcinam et C. ipsum Carbonem, quem tu adulescentulus perculisti, ignarum legum, haesitantem in maiorum institutis, rudem in iure civili; et haec aetas nostra praeter te, Crasse, qui tuo magis studio, quam proprio munere aliquo disertorum ius a nobis civile didicisti, quod interdum pudeat, iuris ignara est. Quod vero in extrema oratione quasi tuo iure sumpsisti, oratorem in omnis sermonis disputatione copiosissime versari posse, id, nisi hic in tuo regno essemus, non tulissem multisque praeissem,

master of oratory; so that the right discharge of this office, so important in a political point of view, has nothing to do with eloquence. Thus the self-praise which Scaevola here indulges in is toned down not only by the fact that he shares his distinction with Crassus, but also by the modest confession of his own want of importance as an orator.

3 [*in nostra familia.* Q. Mucius Scaevola, the augur, who is the speaker in this dialogue was the son of Q. Mucius Scaevola cons. B. C. 174. His uncle P. Mucius Scaevola (cons. 133) was one of the earliest distinguished lawyers at Rome: this uncle's brother was adopted by P. Licinius Crassus, and so got the name of P. Licinius Crassus Mucianus: he fell in the war which as consul he was conducting against Aristonicus in 131. He too was an eminent jurist (cf. §§. 170, 210. 240). The cousin of Scaevola the augur, Q. Musius Scaevola the pontifex max., cons. with Crassus the orator in 95, is called by Cic. (§ 180) iuris peritorum eloquentissimus, eloquentium, iuris peritissimus. He was proscribed by the younger Marius and Carbo, and murdered in 82.]

versantur] "are at home in."

7 *adulescentulus*, [in 119 Crassus accused C. Papirius Carbo, then a homo *consularis*, and one of the most eloquent men of his time, on a charge whose nature is not exactly known (it was connected with Carbo's defence of Opimius) with such success that Carbo committed suicide]. P.

8 *haesitantem*] because he was not master of the matter.

in maiorum institutis] the old legal traditions, the usages.

11 *quod*] in a measure, because people must sometimes feel ashamed of the ignorance of their countrymen. § 36 sqq.

13 *quasi tuo iure*] as though no legal objection could be raised against it. Cic. in the following words makes Scaevola designedly introduce his own peculiar phrases in the happiest manner; hence the technical expressions, which are to be taken in their strictly legal meaning.

15 *regno*] where you are undisputed lord, and where in consequence every

qui aut interdicto tecum contenderent aut te ex iure manum consertum vocarent, quod in alienas possessiones tam temere irruisses. Agerent enim tecum lege primum 42
Pythagorei omnes atque Democritii ceterique in iure phy-
5 sici vindicarent, ornati homines in dicendo et graves, quibuscum tibi iusto sacramento contendere non liceret; urgerent praeterea philosophorum greges iam ab illo fonte et capite Socrate nihil te de bonis rebus in vita, nihil

legal path is closed in face of your sovereign will.

non tulissem] inasmuch as you allow yourself an illegal invasion of another man's domain.

praeissem] (with or without verba), to dictate the requisite words, both for the introduction of the suit, which had to be begun by the oral utterance of fixed solemn formulas, and also for the indication according to prescribed manner in legal terms of the complaint which the plaintiff brought forward. Any one who failed herein lost his suit, and hence the parties had to apply to an advocate versed in the law, who secured everything for them in this respect.

multis] so that not merely one, but a whole multitude of suits was to be brought against Crassus at the same time.

1 *interdicto*] by means of an interdict-process, or in accordance with the proceedings that are employed de possessione in consequence of an interdictum praetoris (i.e. orig. a prohibition, then generally a decree of the praetor). [The interdicta were either retinendae or recuperandae possessionis causa. The general proceeding in this interdicto contendere was for the plaintiff to challenge the defendant to a sponsio, whereby the latter pledged himself to a certain forfeit, if he had acted contra edictum praetoris, e.g. si fundum unde tu me vi dejecisti, contra edictum praetoris non restituisti, tot nummos dare spondes.] P.

ex iure manum consertum] to a solemn *legis actio sacramento et vindicatio*. [the t. t. employed in contests about disputed possessions: "I call you out of court to engage in a struggle with me on the property": the proper answer was "unde tu me ex iure manum (or manu) consertum vocasti, inde ibi ego te revoco." Cf. Cic. pro Mur. 12. 26.]

4 [Pythagoras and Democritus (founder of the atomic philosophy) were the most celebrated ancient physicists].

7 *greges*] associations or schools. pro Sest. 38. 81.

fonte et capite] both ideas often united, thus § 195 legum fontes et capita.

[N.B. caput is used both of the *source* of a river (Hor. Od. I. 1. 22. Verg. Georg. 4. 368) and of the *mouth* (Hor. Sat. I. 10. 37 and perhaps Verg. G. IV. 319, but cf. Conington in loc.)].

9 *Socrate*] the father of all the later philosophical schools, III. 16. 60. Socrates parens philosophiae iure dici potest. de Fin. II. 1. 1.

de bonis rebus] The Socratic philosophy was the first which turned its eyes upon human life as such: its direction was *ethical*, whilst the ante-Socratic philosophy in consequence of its *physical* direction had to do only with the universe, the κόσμος, the rerum natura. Hence the well-known words of Cic. (Tusc.

de malis, nihil de animi permotionibus, nihil de hominum moribus, nihil de ratione vitae didicisse, nihil omnino quaesisse, nihil scire convincerent; et cum universi in te impetum fecissent, tum singulae familiae litem tibi intenderent. Instaret Academia, quae, quicquid dixisses, id te 43
ipsum negare cogeret; Stoici vero nostri disputationum suarum atque interrogationem laqueis te irretitum tenerent; Peripatetici autem etiam haec ipsa, quae propria oratorum putas esse adiumenta atque ornamenta dicendi, a se peti vincerent oportere, ac non solum meliora, sed etiam multo plura Aristotelem Theophrastumque de istis rebus, quam omnes dicendi magistros scripsisse ostenderent. Missos facio mathematicos, grammaticos, musicos, 44
quorum artibus vestra ista dicendi vis ne minima quidem societate coniungitur. Quam ob rem ista tanta tamque multa profitenda, Crasse, non censeo; satis id est magnum, quod potes praestare, ut in iudiciis ea causa, quamcumque tu dicis, melior et probabilior esse videatur, ut in contionibus et in sententiis dicendis ad persuadendum tua plurimum valeat oratio, denique ut prudentibus diserte,

v. 4, 11) Socrates—primus philosophiam evocavit a caelo et in urbibus collocavit et in domos etiam introduxit et coegit de *vita* et *moribus rebusque bonis et malis* quaerere. Acad. I. 4, 14, de Rep. I. 10. 15.

nihil—scire] § 204. Acad. II. 23. 74. Socrati *nihil*—visum sciri posse; excepit unum tantum, *scire se nihil scire.*

3 *universi*] "en masse," a term suitable to a great confederacy, cum omnes se Socraticos et dici vellent et esse arbitrarentur, III. 16. 61. pro Sest. 35, 76.

4 *singulae familiae*] each philosophical school for itself, in so far as each again formed a distinct corporation with a leader (like the father of a family, ἡγεμών, καθηγητής) at its head.

6 *nostri*] II, 45 Panaetii illius tui.

8 *quae &c.*] To such a practical jurist as Scaevola the fundamental principle of the Academics [that nothing could be known with certainty] must have seemed very marvellous, hence the ironical reference to that principle in *vincerent* as above (§ 42), convincerent, to prove to demonstration, II. 43, 180, 182.

24 *in sententiis dicendis*] in the senate—in the genus judic. and delib. on both sides, address to the people in the contio and the speech (for the expression of opinion) in the senate.

denique] "in a word," to cut short the train of thought.

prudentibus] the practical judges of the matter, who besides the correctness of the substance, look also

stultis etiam vere videare dicere. Hoc amplius si quid poteris, non id mihi videbitur orator, sed Crassus sua quadam propria, non communi oratorum facultate posse.'

Tum ille 'non sum' inquit 'nescius, Scaevola, ista 11
inter Graecos dici et disceptari solere, audivi enim sum- 45
mos homines, cum quaestor ex Macedonia venissem Athenas, florente Academia, ut temporibus illis ferebatur, cum eam Charmadas et Clitomachus et Aeschines obtinebant. Erat etiam Metrodorus, qui cum illis una ipsum illum Carneadem diligentius audierat, hominem omnium in dicendo, ut ferebant, acerrimum et copiosissimum; vigebatque auditor Panaetii illius tui Mnesarchus et Peripatetici Critolai Diodorus. Multi erant praeterea clari in 46
philosophia et nobiles, a quibus omnibus una paene voce repelli oratorem a gubernaculis civitatum, excludi ab omni doctrina rerumque maiorum scientia ac tantum in iudicia et contiunculas tamquam in aliquod pistrinum detrudi et compingi videbam; sed ego neque illis adsentiebar neque 47
harum disputationum inventori et principi longe omnium

to the satisfactory form: *stultis* are the uneducated who are still able to give a judgment on the correctness and truth of the statement.

4 *Rejoinder of Crassus to the objections of Scaevola* (II. 45—17. 74).

6 *quaestor* [in 112 B.C.].

7 *Academia*] the new or third academy.

7 *ferebatur*] because Crassus did not trust his independent judgment in this respect.

10 [Carneadem, who had visited Rome in 155, and alarmed Cato so by his lax morality and unprincipled eloquence.]

11 *acerrimum*] II. 38. 161; III. 19. 71; Diog. Laert. IV. 9. 2. ["He had such powers in philosophy, that the very rhetoricians dismissed their scholars and came to him to listen to him. He was gifted also with a splendid voice, and in philosophical investigations was a formidable opponent."]

17 *in pistrinum*] to hard penal servitude, as frequently in the Roman comic poets: te in pistrinum dedam, homo pistrino dignus; hence, *detrudi et compingi*, as they used to treat slaves, whom they flung without ceremony into underground dungeons and imprisoned there. Ter. Andr. III. 4. 21, praecipitem me in pistrinum dabit [literally a 'pounding-mill' for corn, from *pinso*].

19 *harum disputationum inventori*] inasmuch as in his dialogue the Gorgias (so named after the well-known sophist and rhetorician) he brings forward in controversy with the sophists precisely this opposition between philosophy and rhetoric, of which the latter only determines men to the pleasure of the senses, whilst philosophy alone leads them

in dicendo gravissimo et eloquentissimo, Platoni, cuius tum Athenis cum Charmada diligentius legi Gorgiam; quo in libro hoc maxime admirabar Platonem, quod mihi in oratoribus irridendis ipse esse orator summus videba-
5 tur. Verbi enim controversia iam diu torquet Graeculos homines contentionis cupidiores quam veritatis: nam si 48
quis hunc statuit esse oratorem, qui tantummodo in iure et in iudiciis possit aut apud populum aut in senatu copiose loqui, tamen huic ipsi multa tribuat et concedat
10 necesse est; neque enim sine multa pertractatione omnium rerum publicarum neque sine legum, morum, iuris scientia neque natura hominum incognita ac moribus in his ipsis rebus satis callide versari et perite potest. Qui autem haec cognoverit, sine quibus ne illa quidem minima

to a true insight (III. 32. 129). Hence exagitator omnium rhetorum, Or. 13. 42.

1 *in dicendo gravissimo et eloquentissimo*] both, the gravitas in dicendo (for the words *in dicendo* belong naturally only to *grav.* and probably not also to *eloq.* cf. § 49) and the eloquentia of Plato, his elevated earnestness, and in addition to this his copious and charming diction, Cicero often celebrates de Off. I. 1. 4, and Or. 19. 62, Plato longe omnium quicunque scripserunt aut locuti sunt, exstitit et *suavitate* et *gravitate* princeps. Graeculos homines—in a contemptuous sense, as the diminutive shows. [Cf. Juv. III. 78, Graeculus esuriens in caelum iusseris ibit.] To an earnest Roman, accustomed to an active life, discussions of this kind, which principally turned upon a strife about words, might naturally seem very petty; a contempt which must have been only increased by the many charlatans and semi-savants among the Greeks who at this time and later still more numerously pressed to Rome, § 221, pro Sest. 51. 110. Plut. Cic. 5, ταῦτα δὴ τὰ Ῥωμαίοις —πρόχειρα καὶ συνήθη ῥήματα Γραϊκὸς καὶ σχολαστικὸς (otiosus) ἀκούων.

7 *in iure et in iudiciis*] in the two departments, the arrangement of the action according to the legal prescriptions, and the management of the same before the court. Cf. § 42, 173, haerere *in iure ac praetorum tribunalibus.*

11 *legum*] The knowledge of the public orator ought to embrace three things: *leges* (esp. the leg. XII. tab.), the legal prescriptions which rest on the decisions of the people; *mos* (or *mores*, § 39, used with *leges*, just like the strictly technical term *mos*, Or. part. 37. 130), the legal customs; the traditional usage; and the special *ius*, the sum of all the various positive legal decisions, partly of a public, partly of a private nature.

13 *satis callide*] so that he in no way lays himself open, so as to betray his ignorance (theoretically secure).

perite] with practical skill, § 93.

14 *ne illa quidem minima*] that in comparison with much more important things, as is universally recognised, occupy a very subordinate position, in regard to the manage-

in causis quisquam recte tueri potest, quid huic abesse poterit de maximarum rerum scientia? Sin oratoris nihil vis esse nisi composite, ornate, copiose loqui, quaero, id ipsum qui possit adsequi sine ea scientia, quam ei non conceditis? dicendi enim virtus, nisi ei, qui dicet, ea, de quibus dicet, percepta sint, exstare non potest. Quam ob 49
rem, si ornate locutus est, sicut et fertur et mihi videtur, physicus ille Democritus, materies illa fuit physici, de qua dixit, ornatus vero ipse verborum oratoris putandus est; et, si Plato de rebus a civilibus controversiis remotissimis divinitus est locutus, quod ego concedo; si item Aristoteles, si Theophrastus, si Carneades in rebus eis, de quibus disputaverunt, eloquentes et in dicendo suaves atque ornati fuerunt, sint hae res, de quibus disputant, in aliis quibusdam studiis, oratio quidem ipsa propria est huius unius rationis, de qua loquimur et quaerimus. Etenim 50
videmus eisdem de rebus ieiune quosdam et exiliter, ut eum, quem acutissimum ferunt, Chrysippum, disputavisse neque ob eam rem philosophiae non satis fecisse, quod non habuerit hanc dicendi ex arte aliena facultatem.

ment of the action, but with reference to which we may at least demand that a man shall be able to treat the case before him without gross violations of the general law, or the positive enactment or usage.

3 *composite*] in orderly sequence of thoughts and words (§ 64, II. 2. 5) belongs to collocatio: *ornate*, full of taste, to elocutio, *copiose*, full of matter, to inventio.

5 *concediis*] you and the philosophers whom you are representing.

dicendi enim virtus] § 20.

6 We must distinguish between matter and form; the latter, without doubt, appertains to the orator, just as it is admitted that a man can be a really good philosopher without having the power of expounding his views in a beautiful style.

8 *Democritus*] Plut. qu. symp. v. 7, p. 683, *τὸν ἄνδρα τῇ λέξει δαιμονίως λέγειν καὶ μεγαλοπρεπῶς.*

10 *Plato*] § 47.

11 *Aristoteles*] a fine master of language, so that he can be matched with the artistic Isocrates, III. 35. 141. Brut. 31. 121, Quis Aristotele nervosior? ["The excellence of his style is, we believe, the last thing to attract the notice of his readers; and yet, as a specimen of pure Greek, it is found to stand almost unrivalled. The words are selected from the common idiom; but they are employed with the utmost propriety, and by their collocation are made further subservient to the perspicuity and force of his meaning." — Bp Hampden.]

16 *rationis*] department, province.

Quid ergo interest aut qui discernes eorum, quos nomi- 12
navi, in dicendo ubertatem et copiam ab eorum exilitate,
qui hac dicendi varietate et elegantia non utuntur?
Unum erit profecto, quod ei, qui bene dicunt, adferunt
proprium, compositam orationem et ornatam et artificio
quodam et expolitione distinctam; haec autem oratio, si
res non subest ab oratore percepta cognita, aut nulla sit
necesse est aut omnium irrisione ludatur. Quid est enim 51
tam furiosum, quam verborum vel optimorum atque orna-
tissimorum sonitus inanis, nulla subiecta sententia nec
scientia? Quicquid erit igitur quacumque ex arte, quo-
cumque de genere, id orator, si tamquam clientis causam
didicerit, dicet melius et ornatius, quam ipse ille eius rei
inventor atque artifex. Nam si quis erit, qui hoc dicat, 52
esse quasdam oratorum proprias sententias atque causas et
certarum rerum forensibus cancellis circumscriptam scien-
tiam, fatebor equidem in his magis adsidue versari hanc
nostram dictionem, sed tamen in his ipsis rebus permulta
sunt, quae ipsi magistri, qui rhetorici vocantur, nec tra-
dunt nec tenent. Quis enim nescit maximam vim exsis- 53
tere oratoris in hominum mentibus vel ad iram aut ad
odium aut ad dolorem incitandis vel ab hisce eisdem per-
motionibus ad lenitatem misericordiamque revocandis?
Quae nisi qui naturas hominum vimque omnem huma-
nitatis causasque eas, quibus mentes aut incitantur aut
reflectuntur, penitus perspexerit, dicendo quoad volet per-

5 *compositam orationem*] § 48. Rhet. ad Herenn. IV. 12. 18, *compositio* est verborum constructio, quae facit omnes partes orationis aequibiliter perpolitas.

artificio quodam, &c.] known by a peculiar artistic construction, as well as by fine elaboration, and polish.

6 *si res non subest*] § 20. *irrisione*, § 17.

12 *tamquam clientis*] if he had instructed himself as thoroughly about it, as about an action, which he had to conduct for some one (II. 24. 99). [The anecdote is well known about Sir W. Follett and George Stephenson, discussing the coal question with Dr Buckland.]

26 *penitus, &c.*] § 17.

quoad] so we must read instead of *quod*. The sense is not, "without sufficient psychological knowledge the orator cannot attain his aim at

ficere non poterit. Atque totus hic locus philosophorum 54
proprius videtur, neque orator me auctore umquam repugnabit; sed, cum illis cognitionem rerum concesserit, quod in ea solum illi voluerint elaborare, tractationem orationis, quae sine illa scientia nulla est, sibi adsumet; hoc enim est proprium oratoris, quod saepe iam dixi, oratio gravis et ornata et hominum sensibus ac mentibus accommodata.

Quibus de rebus Aristotelem et Theophrastum scrip- 13
sisse fateor; sed vide ne hoc, Scaevola, totum sit a me: 55
nam ego, quae sunt oratori cum illis communia, non mutuor ab illis: isti quae de his rebus disputant, oratorum esse concedunt; itaque ceteros libros artis suae nomine, hos rhetoricos et inscribunt et appellant. Etenim 56

all," but rather "without such knowledge of his three most important objects, the docere or *probare*, concitare or *movere*, and the *conciliare* (II. 28, 121), he cannot secure by oratory the two most important, the movere and conciliare (§ 60, II. 42. 178; 53, 215), as far as he wishes, to the degree that he has in view. Thus the preceding quae gathers together in close connection with what had gone before, the *incitare* and ab his permotionibus ad lenitatem *revocare*, the movere and conciliare. By the qualifying clause *quoad volet* (§ 172) it is fitly implied that movere and conciliare are limited in their extent and force by the special object of the orator at the time. Cf. II. 16. 70, ad suum arbitrium; II. 27. 115, ad id quod volumus; III. 15. 55, quocunque incubuerit. Brut. 80. 279.

1 *locus*] τόπος, head of discussion. [Cope, Introduction, p. 124.]

2 *videtur*] the emphasis lies on *hic* and philosophorum *proprius*. The just mentioned department of Ethics and Psychology appears, by the nature of its matter, to be essentially philosophical; and even Crassus admits this in *tantum*, only in such a manner that he assigns the material side, the quest of matter to the philosopher, the formal part, the oratorical handling of the same, to the orator, just as Aristotle and Theophrastus had practically made the same avowal by treating of these topics in their rhetoric. The reading *putatur* has perhaps only arisen from an explanatory gloss on *videtur*.

me auctore] "if I am to advise him," "in my judgment," that he may not go too far and dispute with the philosopher even that which really belongs to his province, III. 14. 54.

4 *voluerint*] the orator therefore does philosophers no wrong, for it has been their free resolve, as the miner has only to explore the shaft and seek the metal, but to leave the working of it to others.

10 *vide ne*, as §§ 77. 235; II. 17. 71.

a me] "that this is not all on my side." [Similarly, a me facere, stare, sentire.]

14 *rhetoricos inscribunt*] as III. 31. 122.

cum illi in dicendo inciderint loci, quod persaepe evenit, ut de dis immortalibus, de pietate, de concordia, de amicitia, de communi gentium iure, de aequitate, de temperantia, de magnitudine animi, de omni virtutis genere sit dicendum, clamabunt, credo, omnia gymnasia atque omnes philosophorum scholae sua esse haec omnia propria, nihil omnino ad oratorem pertinere. Quibus ego, ut de 57
his rebus in angulis consumendi otii causa disserant, cum concessero, illud tamen oratori tribuam et dabo, ut eadem, de quibus illi tenui quodam exsanguique sermone disputant, hic cum omni iucunditate et gravitate explicet. Haec ego cum ipsis philosophis tum Athenis disserebam; cogebat enim me M. Marcellus hic noster, qui nunc aedilis curulis est et profecto, nisi ludos nunc faceret, huic nostro sermoni interesset; ac iam tum erat adulescentulus his
studiis mirifice deditus. Iam vero de legibus, de bello, 58
de pace, de sociis, de vectigalibus, de iure civium generatim in ordines aetatesque descripto dicant vel Graeci,

1 *loci*] the so-called loci communes [common-places], "quod videntur multarum eidem esse causarum" (Or. 36. 126), de Or. III. 27. 106. [Cf. Cope's Introduction, pp. 124—126, and II. 34. 147. 174.]

3 *de communi gentium iure*] the common (philosophical) natural right as opposed to positive right (ius civium), which does not concern philosophers at all. Cf. Nep. Them. 7. 4, quod communi iure gentium facere possint.

5 *gymnasia*] the places where the professors of philosophy used to lecture, § 85.

13 *cogebat*] that C. should enter upon such discussions, to which he was not himself much addicted. The younger generation, to which Marcellus belonged, had, by virtue of the gradual disappearance of the national feeling, much more inclination for such.

14 *ludos*] § 34.

16 *Iam vero*] (§ 8) a further objection, and besides also a further avowal with regard to another department, as before with regard to the philosophical. Thus § 58 corresponds to § 56 and § 59 to § 57.

de legibus] is placed as the matter of chief importance at the head of the things which are now to be introduced in opposition to the loci communes in § 56; C. after mentioning the common human topics, passes to the special and political. [The MSS. add tuendis, which P. in App. Crit. rejects altogether: others read instituendis.]

17 *vectigalibus*] is perhaps to be taken like sociis as a masculine [cf. Caes. B. G. IV. 3, hos Suevi—vectigales sibi fecerunt].

generatim] according to its different divisions or categories (genera), which were determined partly by the different ranks of the people, partly by classification by age.

si volunt, Lycurgum aut Solonem—quamquam illos quidem censemus in numero eloquentium reponendos—scisse melius quam Hyperidem aut Demosthenem, perfectos iam homines in dicendo et perpolitos, vel nostri decemviros, qui XII tabulas perscripserunt, quos necesse est fuisse prudentes, anteponant in hoc genere et Ser. Galbae et socero tuo C. Laelio, quos constat dicendi gloria praestitisse. Numquam enim negabo esse quasdam partes proprias 59
eorum, qui in his cognoscendis atque tractandis studium suum omne posuerunt, sed oratorem plenum atque perfectum esse eum, qui de omnibus rebus passit copiose varieque dicere. Etenim saepe in eis causis, quas omnes 14
proprias esse oratorum confitentur, est aliquid, quod non ex usu forensi, quem solum oratoribus conceditis, sed ex obscuriore aliqua scientia sit promendum atque adsumen-

p. Flacc. 7. 15, quae populus inheret—*descriptis ordinibus*, classibus, *aetatibus*—iuberi vetarique voluerunt. [Lambinus corrected *descriptorum:* in MSS. -orum is denoted by o'.]

1 *Lycurgum aut Solonem*] as the two greatest lawgivers and the types of all, to whom in Rome the creators of the legislation of the XII Tables alone could be preferred.

2 *in numero eloquentium*] Brut. 7. 27, Quamquam opinio est—etiam Solonem multum, ut temporibus illis, valuisse dicendo. Hence the objection is modified.

3 *Hyperidem aut Demosthenem*] the one mentioned second is the greater (as above Solon and below Laelius), Brut. 9. 36, Huic (*i. e.* Demostheni) Hyperides proximus.

4 *nostri.*] It *Graeci* is right, *nostri* must be read as a parallel to it. But perhaps Graeci ought to be corrected, and the MS. reading nostros to be retained (cf. III. 15. 56); then si volunt leaves a choice between Greek and Roman examples.

5 *perscripserunt*] denotes the complete and perfect composing: de Inv. II. 2. 4, Quod quoniam nobis quoque voluntatis accidit, ut artem dicendi *perscriberemus*, non unum aliquod proposuimus exemplum, sed etc.

necesse est] (opposed to constet) as we must conclude from the excellence of the work, I. 44. 195.

6 *in hoc genere*] in this point of view, § 97.

10 *sed*] sc. dicam, which by a well-known form of speech must be understood out of negabo.

12 *dicere*] in contrast with scisse as the peculiarly oratorical activity is placed with special emphasis at the end.

Etenim] the assertion just made retains its force, even if we limit the orator to the department which is commonly conceded to him.

15 *promendum atque adsumendum*] the MSS. have promendum atque sumendum; but *ad* cannot well be spared here (I. 29. 133; 37. 170; 50. 217; 55. 226, &c.); something often presents itself in causis foren. (est aliquid) which borrows from another department of knowledge (I. 46. 201, depromenda), and must be taken *in addition* to the usual forensic know-

dum; quaero enim num possit aut contra imperatorem 60
aut pro imperatore dici sine rei militaris usu aut saepe
etiam sine regionum terrestrium aut maritimarum scien-
tia; num apud populum de legibus iubendis aut vetandis,
num in senatu de omni rei publicae genere dici sine
summa rerum civilium cognitione et prudentia; num ad-
moveri possit oratio ad sensus animorum atque motus vel
inflammandos vel etiam exstinguendos, quod unum in
oratore dominatur, sine diligentissima pervestigatione ea-
rum omnium rationum, quae de naturis humani generis
ac moribus a philosophis explicantur. Atque haud scio an 61
minus vobis hoc sim probaturus; equidem non dubitabo,
quod sentio, dicere: physica ista ipsa et mathematica et
quae paullo ante ceterarum artium propria posuisti, scien-
tiae sunt eorum, qui illa profitentur; illustrare autem
oratione si quis istas ipsas artes velit, ad oratoris ei con-
fugiendum est facultatem; neque enim, si Philonem illum 62
architectum, qui Atheniensibus armamentarium fecit, con-
stat perdiserte populo rationem operis sui reddidisse, ex-
istimandum est architecti potius artificio disertum quam
oratoris fuisse; nec, si huic M. Antonio pro Hermodoro

ledge to help in the case, II. 69. 163, adsumi foris.

4 [*iubendis.* Iubeo is the technical term for the approval of a law by the people: legem populum Romanum jussisse de civitate tribuenda, pro Balb. 17. 38. The corresponding term with regard to the senate was decernere]

5 *de omni rei publicae genere*] on all sides of political life.

6 *cognitione*] theoretical knowledge; *prudentia*, practical intelligence.

8 *quod unum...dominatur*] §§ 53. 219; II. 53. 215, in quo sunt omnia. Brut. 70. 279, Quis enim non fateatur, cum ex omnibus oratoris laudibus longe ista sit maxima, inflammare animos audientium, et quocunque res postulet modo flectere, qui hac virtute caruerit, id ei quod maximum fuerit, defuisse?

11 *Atque* etc.] Hereby Crassus wishes to prepare his hearers for the assertion which follows, which might appear somewhat bold. [Atque= and in fact.]

14 *scientiae*] are in their substance the subjects of special knowledge.

20 *artificio*] by force of his artistic skill and technical knowledge, § 73.

[Philo, about 150 B.C.]

21 *M. Antonio*] who indeed, independently of that, must have understood something about naval affairs, as having commanded in a naval

fuisset de navalium opere dicendum, non, cum ab illo causam didicisset, ipse ornate de alieno artificio copioseque dixisset; neque vero Asclepiades, is quo nos medico amicoque usi sumus, qui tum eloquentia vincebat ceteros medicos in eo ipso, quod ornate dicebat, medicinae facultate utebatur, [non eloquentiae]; atque illud est probabilius, neque tamen verum, quod Socrates dicere solebat, omnes in eo, quod scirent, satis esse eloquentes; illud verius, neque quemquam in eo disertum esse posse, quod nesciat, neque, si optime sciat ignarusque sit faciundae ac poliendae orationis, diserte id ipsum, de quo sciat, posse dicere. Quam ob rem, si quis universam et propriam oratoris vim definire complectique vult, is orator erit mea sententia hoc tam gravi dignus nomine, qui, quaecumque res inciderit, quae sit dictione explicanda, prudenter et composite et ornate et memoriter dicet cum quadam actionis etiam dignitate. Sin cuipiam nimis infinitum videtur, quod ita posui 'quacumque de re,' licet hinc

63 64 65

war against the pirates of Cilicia in 103, on account of which he gained a triumph.

4 *usi sumus*] hence Asclepiades was no longer living.

qui tum] so must we read according to the traces furnished by the MSS; the usual reading cum vincebat can hardly be right; for if causal, it would have required the conj., if temporal, it gives no rational sense. *tum*, §§ 25, 93, 225, 228, &c.

6 [*non eloquentiae*] is certainly a later addition, that has crept in from the margin, for *non* after *neque vero*, to be taken in the sense of sed, cannot be tolerated. If only the right accent be laid on *medicinae*, it is at once felt that the words non eloquentiae are an insertion that makes the sentence drag.

Atque] "and from this point of view."

probabilius] has rather the appearance of truth, still without really being true. [For this meaning of "plausible" cf. § 240 and prob. mendacium in Liv. XL. 29.]

7 *dicere solebat*] Xen. Mem. IV. 6. 1, Σωκράτης γὰρ τοὺς μὲν εἰδότας, τί ἕκαστον εἴη τῶν ὄντων ἐνόμιζε καὶ τοῖς ἄλλοις ἂν ἐξηγεῖσθαι.

10 *ignarusque*] and still does not understand, as -que is often used. § 75.

faciundae ac poliendae] II. 9, 36; III. 48, 184.

64. In this definition Crassus embraces the five-fold negotium of the orator: [1. inventio: 2. partitio et dispositio: 3. elocutio: 4. memoria: 5. actio, pronuntiatio] P.

18 *posui*, as the two Erl. MSS. have it, "I have just expressed myself, have just observed" (II. 10, 41; III. 36, 145); not proposui, as is commonly read; for that would mean, "because I have given myself the task," whilst Crassus here only wishes to recall the leading words. Brut. 45, 165.

quantum cuique videbitur circumcidat atque amputet, tamen illud tenebo, si, quae ceteris in artibus aut studiis sita sunt, orator ignoret tantumque ea teneat, quae sint in disceptationibus atque in usu forensi, tamen his de rebus ipsis si sit ei dicendum, cum cognoverit ab eis, qui tenent, quae sint in quaque re, multo oratorem melius quam ipsos illos, quorum eae sint artes, esse dicturum. Ita si de re militari dicendum huiç erit Sulpicio, quaeret 66 a C. Mario adfini nostro et, cum acceperit, ita pronuntiabit, ut ipsi C. Mario paene hic melius, quam ipse, illa scire videatur; sin de iure civili, tecum communicabit atque hominem prudentissimum et peritissimum in eis ipsis rebus, quas abs te didicerit, dicendi arte superabit; sin quae res inciderit, in qua de natura, de vitiis homi- 67 num, de cupiditatibus, de modo, de continentia, de dolore, de morte dicendum sit, forsitan, si ei sit visum,—etsi haec quidem nosse debet orator,—cum Sex. Pompeio, erudito homine in philosophia, communicarit; hoc profecto efficiet, ut, quamcumque rem a quoquo cognoverit, de ea multo dicat ornatius quam ille ipse, unde cognorit. Sed 68

9 *adfini*] because the son of this illustrious man had married the sister of the wife of Cr., the other daughter of M. Scaevola the Augur, and was therefore his brother-in-law. [tecum. cf. § 39 and note].

§ 67 The period is not quite of the same form as the preceding one. After communicarit one would have expected (after the analogy of et pronuntiabit and et superabit) simply et efficiet, ut dicat ornatius, q. i. i. u. c. (i. e. Pompeius). Instead of this Crassus finishes at comm. the definitive general sentence, without first mentioning specially that the properly instructed orator will surpass even the philosopher in statement: "but where ethical questions come into prominence, there the orator may perhaps once, if he considers it advantageous, discuss them —*ἀνακοινώσαιτ' ἄν*— with a philosopher of repute; he will always succeed in expressing himself upon every subject (hence also upon a philosophical subject) whencesoever he may have derived his knowledge, with greater taste than the man to whom he owes the idea."

20 *Sed.* From the case just adduced by way of example (in spite of the parenthetical remark, etsi—orator), the deduction might have been easily drawn, that the department of ethics bore the same relation to the orator as the previously mentioned military and legal provinces. Cr. first meets this by claiming the locus de vita et moribus for the orator as regards its substance also, (III. 14, 54): then he reintroduces

si me audiet, quoniam philosophia in tres partes est tributa, in naturae obscuritatem, in disserendi subtilitatem, in vitam atque mores, duo illa relinquamus atque largiamur inertiae nostrae; tertium vero, quod semper oratoris fuit, nisi tenebimus, nihil oratori, in quo magnus esse possit, relinquemus. Qua re hic locus de vita et moribus 69
totus est oratori perdiscendus; cetera si non didicerit, tamen poterit, si quando opus erit, ornare dicendo, si modo ad eum erunt delata et ei tradita. Etenim si con- 16
stat inter doctos, hominem ignarum astrologiae ornatissimis atque optimis versibus Aratum de caelo stellisque dixisse; si de rebus rusticis hominem ab agro remotissimum Nicandrum Colophonium poëtica quadam facultate, non rustica, scripsisse praeclare, quid est cur non orator de rebus eis eloquentissime dicat, quas ad certam causam tempusque cognorit? Est enim finitimus oratori poëta, 70
numeris adstrictior paullo, verborum autem licentia liberior, multis vero ornandi generibus socius ac paene par; in hoc quidem certe prope idem, nullis ut terminis circumscribat aut definiat ius suum, quo minus ei liceat eadem

his new modified statement (cetera) and establishes it still further (etenim).

1 *in tres p.*] into Physics, Dialectics and Ethics. Acad. I. 5. 19. Fuit ergo iam accepta a Platone philosophandi ratio triplex: una de vita et moribus, altera de natura et rebus occultis, tertia de disserendo, et quid verum, quid falsum, quid rectum in oratione pravumve, quid consentiens sit, quid repugnet indicando.

7 *didicerit*] "has studied." So discere commonly, II. 1. 1.

9 *etenim*] what the poet is able to do, ornare dicendo, quae non *didicerit*, the orator, who is so closely related to the poet (§ 70), can also do.

10 *doctos*] those who can judge of poetical productions, men versed in criticism and aesthetics.

11 *Aratum*] born at Sol in Cappadocia, and flourished about 270 at the court of Antigonus Gonatas, king of Macedon. The work here referred to is his Phaenomena (*φαινόμενα καὶ διοσημεῖα*, though possibly these were distinct works) translated by Cicero himself, of which translation we have part still extant, "a dull copy of a dull original" (Prof. Ramsay).

13 *Nicandrum*] Cf. Prof. Conington's Virgil, I. pp. 127—129.

16 *finitimus*] III. 7. 27, poetis, quibus est proxima coniunctio cum oratoribus.

17 *adstrictior*] inasmuch as the poet is bound down to metre, the orator only to rhythm: each expresses himself *rhythmically*, the poet only *metrically*. *ius suum*—with a playful reference to § 41: hence also the address to Scaevola.

illa facultate et copia vagari qua velit. Nam illud qua 71
re, Scaevola, negasti te fuisse laturum, nisi in meo regno
esses, quod in omni genere sermonis, in omni parte huma-
nitatis dixerim oratorem perfectum esse debere? Num-
quam mehercule hoc dicerem, si eum, quem fingo, me
ipsum esse arbitrarer. Sed, ut solebat C. Lucilius saepe 72
dicere, (homo tibi subiratus, mihi propter eam ipsam
causam minus, quam volebam, familiaris, sed tamen et
doctus et perurbanus), sic sentio neminem esse in orato-
rum numero habendum, qui non sit omnibus eis artibus,
quae sunt libero dignae, perpolitus; quibus ipsis si in

1 *qua velit*] therefore in *omni genere sermonis*; hence: *nam*.

qua re] "for what reason" in vivid direct questions: if you only reflect that we are talking of the orator in himself, not my own inadequate individual fitness. (§ 78 III. 20, 75). The MSS give *quare*. Another reading is: nam quod illud negasti, etc. nunquam hoc dicerem. Perhaps it was originally cur (quor).

2 *negasti*] § 41. *dixerim* § 34.

5 *fingo*] as a plastic artist, who in the figure on which he is working neglects all individual imperfections.

6 *Sed, ut...C. Lucilius*, etc.] As here, so often Cr. appeals to Lucilius as to an authority worthy of recognition (II. 6. 25; III. 41. 171). Lucilius himself strove after this universality of knowledge, which Crassus requires of an orator, and introduced into his satires all departments of life, especially the province of art and science in the sphere of its exposition. So he came, as we see from these passages, often to speak of the art of oratory, and lashed both the commonplace man of routine, who despised all Greek education, and also an extravagant and pedantic Graecomania (III. 43, 171); but at the same time, just as his successor Horace did, he brought into prominence the due mean here, and repeated with increased distinctness, that the true orator must possess a higher general education. This is also the view of Crassus. Dial. de Oratt. 32 quem (sc. oratorem) non posse aliter exsistere, nec exstitisse unquam confirmo, nisi cum, qui tanquam in aciem omnibus armis instructus, sic in forum *omnibus artibus armatus* exierit.

7 *subiratus*] "not on the best of terms with you," inasmuch as Lucilius had attacked Scaevola in his Satires, perhaps on account of his pride in his knowledge of law, which was hereditary in his family, or in his connection with Laelius, who was his father-in-law, and with Crassus, who was his son-in-law (III. 43, 171), for which reason Crassus too from regard to his father-in-law must have kept at some distance from Lucilius, much as he felt drawn to the poet of kindred spirit, distinguished for the gift of spirited wit. Crassus regretted this: hence *volebam*. The false reading in the MSS. volebat for volebam was evidently introduced because of the preceding solebat (just as in the converse manner Brut. 1. 2 augebam is read for augebat in consequence of the immediately preceding debebam).

11 *libero*] § 17. *exstat*, it stands out, comes into prominence. III. 26. 101.

dicendo non utimur, tamen apparet atque exstat, utrum simus earum rudes an didicerimus: ut qui pila ludunt, 73
non utuntur in ipsa lusione artificio proprio palaestrae, sed indicat ipse motus, didicerintne palaestram an nesciant, et qui aliquid fingunt, etsi tum pictura nihil utuntur, tamen, utrum sciant pingere an nesciant, non obscurum est, sic in orationibus hisce ipsis iudiciorum, contionum, senatus, etiam si proprie ceterae non adhibeantur artes, tamen facile declaratur, utrum is, qui dicat, tantummodo in hoc declamatorio sit opere iactatus an ad dicendum omnibus ingenuis artibus instructus accesserit.'

Tum ridens Scaevola 'non luctabor tecum,' inquit 17
'Crasse, amplius; id enim ipsum, quod contra me locutus 74
es, artificio quodam es consecutus, ut et mihi, quae ego

2 [*pila*. The game of ball in which grown men of the greatest seriousness of character, took very great pleasure, was, as with us, of various kinds. There was the small ball (pila), the large ball (follis), the ball stuffed with feathers (pagan ca): besides the game with three balls (trigon. Hor. Sat. I. 6. 126), and the harpastum] P. [Cf. Becker's Gallus, pp. 398, 404].

3 *artificio proprio palaestrae*] the special gymnastic art of the wrestling-school, which had, however, the object of training the frame generally. § 62; III. 52, 200.

4 *didicerintne palaestram*] whether they have received instruction in gymnastics, III. 22, 83, or whether they are ἀπάλαιστροι. Or. 68, 229.

5 *fingunt*] as sculptors. *pictura*, drawing which teaches the proper proportions and contour. *iudiciorum*, etc. § 201.

8 *proprie*] specially, i.e. directly or immediately.

9 *facile declaratur* etc.] Dial. de Oratt. 32, Nec quisquam respondeat sufficere ut ad tempus simplex quiddam et uniforme doceamur. Primum enim aliter utimur propriis aliter commodatis, longeque interesse manifestum est, possideat quis quae profert, an mutaretur: deinde ipsa multarum artium scientia *etiam aliud agentes nos ornat atque ubi minime credas eminet et excellit.*

10 *in hoc decl.*] whether he only deals with the exterior *declamator*, professional occupation; for nothing but this decl. op. is left remaining if a higher general training is wanting.

§ 74 *Scaevola is unwilling to contend any longer against such polemics; still he protests once more against the far too high demands made on the orator* (17, 74—78).

14 *artificio quodam*] a kind of artifice.

quae] still you do recognize the other arts and sciences (§§ 54, 59), whilst a one-sided rhetorician in the opposition of the philosophical and rhetorical schools (dating from the time of Aristotle and Isocrates) only finds occasion for contempt of the former, and despises absolutely everything that calls itself philosophy. quae refers to ea ipsa, *quae ego vellem non esse oratoris*, hence Politics and Philosophy (§ 35). Hence it follows that we should read philo-

vellem non esse oratoris, concederes, et ea ipsa nescio quo modo rursus detorqueres atque oratori propria traderes; quae, cum ego praetor Rhodum venissem et cum 75
illo summo doctore istius disciplinae Apollonio ea, quae a Panaetio acceperam, contulissem, irrisit ille quidem ut solebat, philosophiamque contempsit multaque non tam graviter dixit quam facete; tua autem fuit oratio eius modi, non ut ullam artem doctrinamve contemneres, sed ut omnes comites ac ministratrices oratoris esse diceres. Quas ego si quis sit unus complexus omnes idemque si ad 76
eas facultatem istam ornatissimae orationis adiunxerit, non possum dicere eum non egregium quendam hominem atque admirandum fore; sed is, si quis esset aut si etiam umquam fuisset aut vero si esse posset, tu esses unus profecto, qui et meo iudicio et omnium vix ullam ceteris oratoribus—pace horum dixerim—laudem reliquisti. Verum 77
si tibi ipsi nihil deest, quod in forensibus rebus civilibusque versetur, quin scias, neque eam tamen scientiam, quam adiungis oratori, complexus es, videamus ne plus ei tribuamus, quam res et veritas ipsa concedat.'

Hic Crassus 'memento' inquit 'me non de mea, sed 78
de oratoris facultate dixisse; quid enim nos aut didicimus aut scire potuimus, qui ante ad agendum, quam ad cognoscendum venimus; quos in foro, quos in ambitione, quos

sophiamque contempsit (for the common reading philosophiam, atque contempsit, in which irrisit has two objects quae and philosophiam, can hardly be defended), whereby the more special, as the principal matter, is brought out with suitable climax out of the more general quae. § 64.

3 *praetor Rhodum*] in 121. Scaevola thus even at that time defended the standpoint of his master, the Stoic philosopher Panaetius, who was also from Rhodes.

5 *ille quidem*] opposed to *tua autem fuit oratio.*

7 *graviter*] convincing by sound reasons, *facete*, wittily.

16 [*pace horum dixerim*, "I would say it with their permission:" Tusc. v. 5. 12, pace tua dixerim].

§ 78 *Crassus in reply points to a greater orator than he has been able to become.* [There is little doubt that Cicero here alludes to himself; cf. Or. v. 18].

21 *non de mea.* III. 20, 74.

23 *ad agendum*] practice § 94. *ad cognoscendum*, theory, III. 20, 111.

in re publica, quos in amicorum negotiis res ipsa ante confecit, quam possemus aliquid de rebus tantis suspicari? Quodsi tibi tantum in nobis videtur esse, quibus etiamsi 79 ingenium, ut tu putas, non maxime defuit, doctrina certe et otium et hercule etiam studium illud discendi acerrimum defuit, quid censes, si ad alicuius ingenium vel maius illa, quae ego non attigi, accesserint, qualem illum et quantum oratorem futurum?'

Tum Antonius 'probas mihi' inquit 'ista, Crasse, quae 18 80 dicis, nec dubito quin multo locupletior in dicendo futurus sit, si quis omnium rerum atque artium rationem naturamque comprehenderit; sed primum id difficile est factu, 81 praesertim in hac nostra vita nostrisque occupationibus; deinde illud etiam verendum est ne abstrahamur ab hac exercitatione et consuetudine dicendi populari et forensi. Aliud enim mihi quoddam orationis genus esse videtur eorum hominum, de quibus paulo ante dixisti, quamvis illi ornate et graviter aut de natura rerum aut de humanis rebus loquantur: nitidum quoddam genus est verborum et laetum, sed palaestrae magis et olei, quam huius civilis turbae ac fori. Namque egomet, qui sero ac leviter Grae- 82 cas litteras attigissem, tamen cum pro consule in Ciliciam proficiscens venissem Athenas, complures tum ibi dies

1 *res ipsa*] opposed to ars, the theory of things. § 250.

4 *doctrina*] "sine qua etiamsi quid bene dicitur adiuvante natura, tamen id quia fortuito fit, semper paratum esse non potest." Brut. 29, III. pro Arch. 7, 15.

§ 80 *Antonius considers this ideal conception of the orator, as he ought to be, but as he never is, doubtful in several respects* (18, 80—21, 26).

17 *dixisti*] § 49.

19 *nitidum*] with reference to the following *olei*, "polished," like the soldier on parade, opposed to the soldier in the field (in acie).

20 *laetum*] similarly without the pain of the wounds in the actual conflict, free from sadness.

palaestrae] where there was no danger; where no blood flowed. Similarly the genus ἐπιδεικτικόν, the parade-talk of the sophists is described in Or. 13, 42: pompae quam pugnae aptius, gymnasiis et palaestris dicatum (I. 22, 147; II. 20, 84). [The *gymnasium* was devoted to all kinds of exercises, the *palaestra* chiefly to wrestling. Cf. Solon's law quoted by Æsch. Tim. p. 147, Δοῦλον μὴ γυμνάζεσθαι μηδὲ ξηραλοιφεῖν (*oleo* inungi) ἐν ταῖς παλαίστραις, and Becker's Charicles, p. 294].

21 *egomet*] II. 14. 60, 61.

22 *attigissem*] "had entered upon," § 79.

sum propter navigandi difficultatem commoratus; sed, cum cotidie mecum haberem homines doctissimos, eos fere ipsos, qui abs te modo sunt nominati, cumque hoc nescio quo modo apud eos increbruisset, me in causis maioribus sicuti te solere versari, pro se quisque quae poterat de officio et ratione oratoris disputabat. Horum 83 alii, sicuti iste ipse Mnesarchus, hos, quos nos oratores vocaremus, nihil esse dicebat nisi quosdam operarios lingua celeri et exercitata; oratorem autem, nisi qui sapiens esset, esse neminem, atque ipsam eloquentiam, quod ex bene dicendi scientia constaret, unam quandam esse virtutem et qui unam virtutem haberet, omnes habere easque esse inter se aequales et pares; ita, qui esset eloquens, eum virtutes omnes habere atque esse sapientem. Sed haec erat spinosa quaedam et exilis oratio longeque a nostris sensibus abhorrebat. Charmadas vero multo ube- 84 rius eisdem de rebus loquebatur, non quo aperiret sententiam suam; hic enim mos erat patrius Academiae adver-

1 *propter nav. diff.*] thus primarily only from an entirely objective motive: hence, *sed...modo*, § 45.

6 *de officio et ratione*] about the vocation and the procedure of an orator. The prep. de is repeated because of the difference between the two conceptions, whilst with similar conceptions the prep. is regularly omitted before the second word. § 97. [Madvig, § 470.]

9 *oratorem*] as a consequence of the Stoic tenet, that the wise man alone knows and can do anything. [Cf. Hor. Sat. I. 3. 123—133].

11 *unam quandam...virtutem*] for ἀρετὴ is an ἐπιστήμη οὐ θεωρητικὴ μόνον ἀλλὰ καὶ πρακτική. Later on (III. 14. 55) when the true knowledge that creates eloquence has been explained, Crassus coincides with this; but what a very different meaning the phrase has in the mouth of the great orator, and here in the mouth of the abstract theoriser.

12 *qui unam.*] Diog. Laert. VII. 125 τὰς δὲ ἀρετὰς λέγουσιν ἀντακολουθεῖν ἀλλήλαις καὶ τὸν μίαν ἔχοντα πάσας ἔχειν, εἶναι γὰρ αὐτῶν τὰ θεωρήματα κοινά.

13 *aequales*] according to the well-known Stoic paradox: ὅτι ἴσα τὰ ἁμαρτήματα καὶ τὰ κατορθώματα.

15 *spinosa*] about the disserendi spinae (de Fin. IV. 28, 79), the dialectic subtleties, in which a man is caught as in a thorn-bush.

exilis] because of the dry abstractedness of their disputations, often without substance and removed from real life, II. 38. 159, III. 18. 66. It was very natural that this abstract dialectic reasoning should not suit a practical statesman like Antonius.

17 *aperiret*] III. 18, 67. ad fin. § 99.

18 *mos erat patrius*] "a traditional usage," inherited from master to disciple as from father to son.

[*adversari*. Their fundamental

sari semper omnibus in disputando; sed cum maxime tamen hoc significabat, eos, qui rhetores nominarentur et qui dicendi praecepta traderent, nihil plane tenere neque posse quemquam facultatem adsequi dicendi, nisi qui philosophorum inventa didicisset. Disputabant contra diserti 19
homines Athenienses et in re publica causisque versati, in 85
quis erat etiam is, qui nuper Romae fuit, Menedemus, hospes meus; qui cum diceret esse quandam prudentiam, quae versaretur in perspiciendis rationibus constituendarum et regendarum rerum publicarum, excitabatur homo promptus atque abundanti doctrina et quadam incredibili varietate rerum atque copia: omnes enim partes illius ipsius prudentiae petendas esse a philosophia docebat neque ea, quae statuerentur in re publica de dis immortalibus, de disciplina iuventutis, de iustitia, de patientia, de temperantia, de modo rerum omnium, ceteraque, sine quibus civitates aut esse aut bene moratae esse non possent, usquam in eorum inveniri libellis; quodsi tantam 86
vim rerum maximarum arte sua rhetorici illi doctores complecterentur, quaerebat, cur de prooemiis et de epi-

position was that every proposition could be with the same justice assailed and defended.] P.

2 *significabat*] as sententiam suam. *tenere.* I. 5. 18; 15. 25; 20. 92 &c.

5 *inventa*] Tusc. II. 3. 9 itaque mihi—consuetudo de omnibus rebus in contrarias partes disserendi—placuit, quod aliter non posset, quid in quaque re verisimile esset, *inveniri:* hence opposed here to the δόγματα of the Stoics, what had been discovered in the course of argument for and against a proposition, and had afterwards established itself as probable, 'investigations.'

11 *promptus atque abundanti*] Menedemus has hardly uttered the definite sentiment about the special and peculiar province of rhetoric, when Charmadas, who had rested after his previous dicussions, can no longer remain quiet; ready for the fray, and in the manysidedness and extent of his knowledge, which was completely at his command, far superior to Men., he rouses himself to disprove with all emphasis this pretension of the rhetoricians. [The MSS. have *promptus ab homine abundanti:* Bake conjectures pr. et omni abundans doctrina] P. For the connection of promptus with the abl. qual. cf. II. 88. 360 [summos homines et divina prope memoria, Athenis *Charmadam*, &c.]

20 *de prooemiis*] III. 20. 75. [Exordiorum duo sunt genera, principium quod Graece προοίμιον appellatio, et insinuatio, quae ἔφοδος nominatur. ad Her. I. 4, 6] P.

nugis] 'trifles.'

logis et de huius modi nugis—sic enim appellabat—referti essent eorum libri, de civitatibus instituendis, de scribendis legibus, de aequitate, de iustitia, de fide, de frangendis cupiditatibus, de conformandis hominum mo- 87
ribus littera nulla in eorum libris inveniretur. Ipsa vero praecepta sic illudere solebat, ut ostenderet non modo eos expertes esse illius prudentiae, quam sibi asciscerent, sed ne hanc quidem ipsam dicendi rationem ac viam nosse: caput enim arbitrabatur esse oratoris, ut et ipse
eis, apud quos ageret, talis, qualem se esse optaret, videretur; id fieri vitae dignitate, de qua nihil rhetorici isti doctores in praeceptis suis reliquissent; et uti ei qui audirent, sic adficerentur animis, ut eos adfici vellet orator; quod item fieri nullo modo posse, nisi cognosset is, qui
diceret, quot modis hominum mentes et quibus et quo genere orationis in quamque partem moverentur; haec autem esse penitus in media philosophia retrusa atque abdita, quae isti rhetores ne primoribus quidem labris 88
attigissent. Ea Menedemus exemplis magis quam argumentis conabatur refellere, memoriter enim multa ex orationibus Demostheni praeclare scripta pronuntians docebat illum in animis vel iudicum vel populi in omnem partem dicendo permovendis non fuisse ignarum, quibus ea rebus consequeretur, quae negaret ille sine philosophia
quemquam nosse posse. Huic respondebat non se negare 89
Demosthenem summam prudentiam summamque vim

6 [*praecepta*. *Illudere* is followed by the dat., the acc., or *in* with the acc. or abl. Cf. § 91.]

10 *talis*] II. 41. 176. *ei—animis*; so the best MSS. Cf. de Off. I. 20. 66, ut cum ita sis *adfectus animo*. Others have eorum—animi.

20 *conabatur refellere*] so the best MSS. for the vulgate refellere combatur.

21 *Demostheni*] Priscian. VI. p. 706 et sciendum, quod in huiusmodi nominibus, quando tertiae sint, frequentissime veteres dativum proferunt pro genitivo, Aristoteli, Demostheni, Thucydidi pro Aristotelis, &c. ponentes. [Madvig § 42. 2.]

25 *respondebat*] sc. Charmadas, which is easily supplied from the connexion: the usual ille before resp. is not in the MSS.

26 *vim*] Dionysius of Halicarnassus [died shortly after B. C. 7] in a special treatise περὶ τῆς λεκτικῆς Δ. δεινότητος shows this fully.

habuisse dicendi, sed sive ille hoc ingenio potuisset sive, id quod constaret, Platonis studiosus audiendi fuisset, non quid ille potuisset, sed quid isti docerent esse quae- 90
rendum. Saepe etiam in eam partem ferebatur oratione, ut omnino disputaret nullam artem esse dicendi; idque cum argumentis docuerat, quod ita nati essemus, ut et blandiri suppliciter et subtiliter insinuare eis, a quibus esset petendum, et adversarios minaciter terrere possemus et rem gestam exponere et id, quod intenderemus, confirmare et id, quod contra diceretur, refellere et ad extremum deprecari aliquid et conqueri, quibus in rebus omnis oratorum versaretur facultas; et quod consuetudo exercitatioque et intellegendi prudentiam acueret et eloquendi celeritatem incitaret; tum etiam exemplorum copia nite- 91
batur: nam primum quasi dedita opera neminem scriptorem artis ne mediocriter quidem disertum fuisse dicebat, cum repeteret usque a Corace nescio quo et Tisia, quos artis illius inventores et principes fuisse constaret; elo-

2 *Platonis*] Plut. Dem. 5. [Hermippus says that he met with some anonymous memoirs in which it was written that Demosthenes was a scholar to Plato, and had been helped much by him for his speeches.] Brut. 31. 121. Lectitavisse Platonem studiose, audivisse etiam Demosthenes dicitur.

6 *cum—docuerat*] 'as often as ever he had proved.' Zumpt. § 579. [Madvig, § 338, a. Obs].

7 *blandiri* etc.]—which ought to be the task of the exordium.

suppliciter] as an accused man, begging for mercy (supplex reus).

subtiliter] in a delicate manner, unobserved, and without growing coarse. *insinuare*—with middle force. II. 35, 149 [ut penitus insinuat in causam; cf. Verg. Æn. II. 228 sq. Tum vero tremefacta novus per pectora cunctis insinuat pavor, etc.] Ar. Rhet. III. 14, 10, ὅταν μέλλῃ εἰσάξειν αὐτόν. [De Inv. I. 15, 20. *insinuatio* est oratio quadam dissimulatione et circuitione obscure subiens auditoris animum (cf. the proceeding of Antonius in the trial of Norbanus, de Oratt. II. 48, 199)].

15 *nam*] now follow the proofs for the argumenta.

quasi dedita opera] 'as if of set purpose.' *scriptorem artis*, the theoretical rhetoricians, the compilers of a τέχνη, a system of rhetoric, τεχνογράφοι. [For this sense of *ars* cf. Juv. VII. 177, "artem scindes Theodori," with Mr. Mayor's note].

17 *nescio quo*] an expression of contempt suitable to the feelings of Antonius, and his position with reference to this branch of Greek literature. [For Corax and Tisias cf. Müller and Don. Gr. Lit II. 98, 99, and the Journal of Sacr. and Class. Phil. Vol. III. pp. 36—47 (part of a well-known series of papers by Mr. Cope)].

18 *constaret*] § 15.

quentissimos autem homines, qui ista nec didicissent nec omnino scire curassent, innumerabiles quosdam nominabat; in quibus etiam, sive ille irridens sive quod ita putaret atque ita audisset, me in illo numero, qui illa non didicissem et tamen, ut ipse dicebat, possem aliquid in dicendo, proferebat; quorum ego alterum illi facile adsentiebar, nihil me didicisse, in altero autem me illudi ab eo aut etiam ipsum errare arbitrabar. Artem vero 92
negabat esse ullam, nisi quae cognitis penitusque perspectis et in unum exitum spectantibus et numquam fallentibus rebus contineretur; haec autem omnia, quae tractarentur ab oratoribus, dubia esse et incerta; quoniam et dicerentur ab eis, qui ea omnia non plane tenerent, et audirentur ab eis, quibus non scientia esset tradenda, sed exigui temporis aut falsa aut certe obscura opinio. Quid 93
multa? sic mihi tum persuadere videbatur neque artificium ullum esse dicendi neque quemquam posse, nisi qui illa, quae a doctissimis hominibus in philosophia dicerentur, cognosset, aut callide aut copiose dicere; in quibus Charmadas solebat ingenium tuum, Crasse, vehementer admirari: me sibi perfacilem in audiendo, te perpugnacem in disputando esse visum. Itaque ego hac eadem opinione 21
adductus scripsi etiam illud quodam in libello, qui me 94

3 *in quibus*] "whereupon," as § 93.

8 *Artem*] This rigorous definition (§ 108) of a system according to its three "notes" of *clearness*, *unity* and *necessity*, or infallibility, was conformable to the philosophic mode of thought.

10 *exitum*] aim, object. *exigui temporis*, for the moment.

16 *neque artificium ullum*] but rather an ἄτεχνος τριβή, § 5.

19 *callide*] § 48. *Solebat admirari*, he often expressed his wonder at the *natural* gifts of Crassus, for from his philosophical point of view he could not allow him 'doctrina.'

21 *perfacilem*] partly because A. viewing the art of oratory as an ἄτεχνος τριβή, was essentially at one with Ch., partly because he for his own part was convinced that these Greek philosophers with all their reasonings uttered nothing in reality, and could hence listen to them in all quietness and peace. Cf. II. 19, 77.

perpugnacem] because he was decidedly of other views. § 47; III. 38, 109 sqq.

23 *libello*] 'de ratione dicendi' § 208; Brut. 44, 163 called 'sane exilis.'

imprudente et invito excidit et pervenit in manus hominum, disertos me cognosse nonnullos, eloquentem adhuc neminem, quod eum statuebam disertum, qui posset satis acute atque dilucide apud mediocres homines ex communi quadam opinione hominum dicere, eloquentem vero, qui mirabilius et magnificentius augere posset atque ornare quae vellet, omnesque omnium rerum, quae ad dicendum pertinerent, fontes animo ac memoria contineret. Id si est difficile nobis, quod ante, quam ad discendum ingressi sumus, obruimur ambitione et foro, sit tamen in re positum atque natura: ego enim, quantum auguror coniectura 95 quantaque ingenia in nostris hominibus esse video, non despero fore aliquem aliquando, qui et studio acriore, quam nos sumus atque fuimus, et otio ac facultate dicendi maiore ac maturiore et labore atque industria superiore, cum se ad audiendum legendum scribendumque dederit, exsistat talis orator, qualem quaerimus, qui iure non solum disertus, sed etiam eloquens dici possit; qui tamen mea sententia aut hic est iam Crassus aut,

2 *disertos* etc] Or. 5, 18, Itaque M. Antonius—in eo libro, quem unum reliquit (II. 2, 8; Quint. III. 1, 19, nam hoc solum opus eius atque id ipsum imperfectum manet), disertos ait se vidisse multos, eloquentem omnino neminem. Insidebat videlicet in eius mente species eloquentiae, quam cernebat animo, re ipsa (*realised*) non videbat. Vir autem acerrimo ingenio, sic enim fuit, multa et in se et in aliis desiderans neminem plane, qui recte appellari eloquens potuit, videbat. Quodsi ille nec se nec L. Crassum eloquentem putavit, habuit perfecto comprehensam animo quandam formam eloquentiae, cui quoniam nihil deerat, eos quibus aliquid aut plura deerant, in eam formam non potuit includere. III. 49, 189. [Translate *disertos* 'good speakers,' and cf. Quint. VIII. 13, Diserto satis dicere quae oporteat: ornate autem dicere proprium est eloquentissimi].

4 *apud mediocres*] 'before an ordinary public,' opposed to a learned assembly (§ III).

ex comm. qu. op. hom.] from the point of view and according to the standard of the general human understanding in a healthy condition.

5 *eloquentem vero* etc.] as Cic. says of himself, Brut. 32. 123, Certe enim et boni aliquid adtulimus iuventuti, *magnificentius* quam fuerat genus dicendi et ornatius.

8 *memoria*] so that they are always at his command.

9 *ante* etc.] § 78.

Antonius too, as Crassus above, predicts the future realisation of this ideal of an orator (i.e. in Cicero).

si quis pari fuerit ingenio pluraque quam hic et audierit et lectitarit et scripserit, paullum huic aliquid poterit addere.'

Hoc loco Sulpicius 'insperanti mihi' inquit 'et Cot- 96
tae, sed valde optanti utrique nostrum cecidit, ut in istum sermonem, Crasse, delaberemini; nobis enim huc venientibus iucundum satis fore videbatur, si, cum vos de rebus aliis loqueremini, tamen nos aliquid ex sermone vestro memoria dignum excipere possemus; ut vero penitus in eam ipsam totius huius vel studii vel artificii vel facultatis disputationem paene intimam veniretis, vix optandum nobis videbatur. Ego enim, qui ab ineunte aetate incen- 97
sus essem studio utriusque vestrum, Crassi vero etiam amore, cum ab eo nusquam discederem, verbum ex eo nunquam elicere potui de via ac ratione dicendi, cum et per memet ipsum egissem et per Drusum saepe temptassem; quo in genere tu, Antoni,—vere loquar—numquam mihi percontanti aut quaerenti aliquid defuisti et persaepe me, quae soleres in dicendo observare, docuisti. Nunc, 98
quoniam uterque vestrum patefecit earum ipsarum rerum aditum, quas quaerimus, et quoniam princeps Crassus eius sermonis ordiendi fuit, date nobis hanc veniam, ut ea, quae sentitis de omni genere dicendi, subtiliter persequamini; quod quidem si erit a vobis impetratum, magnam habebo, Crasse, huic palaestrae et Tusculano tuo gratiam et longe Academiae illi ac Lycio tuum hoc subur-

§ 96 *Sulpicius avails himself of this resting-place to express the delight of Cotta and himself at the unexpected instruction, and with Cotta to pray for the further discussion of the subject* 21, 96—22, 101.

9 [*vel—vel*: 'call it pursuit, or art, or faculty, as you please.' Cf. Donaldson, Lat. Gr. p. 194].

12 [*Crassi* &c. cf. II. 5. 12; 21. 89; III. 12. 47 (where Crassus says to Sulpicius, Antonius mihi te simillimum dixit sibi videri), Brut. 55. 203. Crassum hic volebat imitari, Cotta malebat Antonium] P.

14 *elicere*] as II. 3, 13.

de via ac ratione] § 17. *per Drusum* § 24. *quo in genere* § 58.

17 [*percontanti*. This is the right spelling, and not *percunct.*: the word is probably derived from *contus* 'a pole,' and means originally 'to fathom'].

20 *princeps*] § 29. *date nobis hanc veniam*, § 163 Corn. Nep. Paus. 4. 6.

22 *subtiliter*] 'in detail.'

25 [*Lycio*. The *ει* of Greek proper names is sometimes represented in Latin by ī, sometimes by ē. Thus Alexandrea and īa, Darēus and Darīus.]

banum gymnasium anteponam.' Tum ille 'immo vero,' 22
inquit 'Sulpici, rogemus Antonium, qui et potest facere, 99
quod requiris, et consuevit, ut te audio dicere: nam me
quidem fateor semper a genere hoc toto sermonis refugisse
et tibi cupienti atque instanti saepissime negasse, ut tute
paullo ante dixisti; quod ego non superbia neque inhuma-
nitate faciebam neque quo tuo studio rectissimo atque
optimo non obsequi vellem, praesertim cum te unum ex
omnibus ad dicendum maxime natum aptumque cognos-
sem, sed mehercule istius disputationis insolentia atque
earum rerum, quae quasi in arte traduntur, inscitia.'
Tum Cotta 'quoniam id, quod difficillimum nobis vide- 100
batur, ut omnino de his rebus, Crasse, loquerere, adsecuti
sumus, de reliquo iam nostra culpa fuerit, si te, nisi omnia,
quae percontati erimus, explicaris, dimiserimus.' 'De eis, 101
credo, rebus,' inquit Crassus 'ut in cretionibus scribi solet:
QUIBUS SCIAM POTEROQUE.' Tum ille 'nam quod tu non

4 *refugisse*] § 82.

6 *inhumanitate*] from 'discourtesy or want of complaisance.'

7 [*quo*—for this use, rare without a comparative following, see Madvig, § 440 b, Obs 1.]

11 *quasi in arte*] whose communication, so to speak, is usually in a rigorously systematic form, so that one must pay regard to this form. § 157. II. 11, 48.

insciitia] to be distinguished from inscientia perhaps. Cr. does not deny that he knew the precepts of the rhetoricians, but he says that he was wanting in the power to handle skilfully these theoretical subjects. But conversely in 1. 46, 203 inscientiam is the right reading, because the question is not about the rhetorical theory, but about the high task of the orator that had just been painted, for the exhaustive statement of which (as Cr. in his modesty thinks) his knowledge does not suffice.

§ 101 *Influenced by the entreaties of the two young men Crassus answers briefly, still not in the customary sophistical manner of the rhetoricians, the question directed to him, whether a special scientific character ought to be ascribed to the art of oratory.* (22, 101—24, 110).

16 [in cretionibus. Ulpian, XXII 27, *cretio* est certum dierum spatium quod datur instituto heredi ad deliberandum, utrum expediat ei adire hereditatem necne, velut: 'Titius heres esto *cernitoque in diebus centum proximis, quibus scieris poterisque*; nisi ita creveris exheres esto.' Both the time of deliberation and the formal declaration of the appointed heir whether or no he would enter on the inheritance, are called cretio. Crassus takes out of this formula the words 'quibus sc. diebus sciam poteroque,' and employs them in their limiting sense 'so far as I have the knowledge and the power' with reference to his task] P. [cf. also Dict. Ant. s.v. Heres 599 a].

17 *nam*] yes indeed, we willingly concede that much to you, 'cela

poteris aut nescies, quis nostrum tam impudens est qui se scire aut posse postulet?' 'iam vero ista conditione, dum mihi liceat negare posse quod non potero et fateri nescire quod nesciam, licet' inquit Crassus 'vestro arbitratu percontemini.' 'Atqui' inquit Sulpicius 'hoc primum ex te, 102 de quo modo Antonius exposuit, quid sentias, quaerimus, existimesne artem aliquam esse dicendi?' 'quid? mihi nunc vos' inquit Crassus 'tamquam alicui Graeculo otioso et loquaci et fortasse docto atque erudito quaestiunculam, de qua meo arbitratu loquar, ponitis? quando enim me ista curasse aut cogitasse arbitramini et non semper irrisisse potius eorum hominum impudentiam, qui cum in schola adsedissent magna hominum frequentia, dicere iuberent, si quis quid quaereret? quod primum ferunt Leon- 103 tinum fecisse Gorgiam, qui permagnum quiddam suscipere ac profiteri videbatur, cum se ad omnia, de quibus

va sans dire' *for*—wherein the answerer coincides with the speaker, and introduces his reason for him.

2 *iam vero*] after this great favour —Cr. continues ironically—that you have granted me, you too shall have a favour; you may now put further questions.

5 *Atqui*] for the introduction of the syllogistic assumptio; 'but now (if it be so) the first question which we put is,' with a certain intentional formality, such as quite corresponds to the just mentioned sportive tone of the conversation. [On the force of *atqui* cf. Madv. § 437 c. obs.]

7 *artem*] 'whether there is a special science of oratory,' ars enim earum rerum est, quae sciuntur, II. 7. 30.

8 *Graeculo*] § 47. quaestiunculam, such a petty question, § 198.

9 *docto*] de Am. 5. 17, doctorum est ista consuetudo eaque Graecorum, ut eis *ponatur* (that they may have a subject given them) de quo disputent quamvis subito.

12 *impudentiam*] II. 4, 18. [In the year of his censorship 92, Crassus with his colleague Cn. Domitius Ahenobarbus published the famous edict against the schools of the Latin rhetoricians as *ludos impudentiae*. Dial. de Orat. 30. de Or. III. 24. 93] P. *in schola*, to which such an hominum frequentia is not fitting, *adsedissent* in order to let themselves be seen and heard as connoisseurs. (ostentatio declamatoria).

14 *primum*] de Fin. II. 1. 1, eorum erat iste mos, qui tum sophistae nominabantur, quorum e numero primus est ausus Leontinus Gorgias in conventu poscere quaestionem, id est iubere dicere qua de re quis vellet audire. Audax negotium! dicerem impudens (II. 4. 18) nisi hoc institutum postea translatum ad philosophos nostros esset. Catulus pronounces afterwards (III. 32. 129) a more favourable judgment on Gorgias and the Sophists from a different point of view.

15 *suscipere ac profiteri*] are the verba solennia, used of those who publicly undertake anything as their

quisque audire vellet, esse paratum denuntiaret; postea vero volgo hoc facere coeperunt hodieque faciunt, ut nulla sit res neque tanta neque tam improvisa neque tam nova, de qua se non omnia, quae dici possint, profiteantur esse dicturos. Quodsi te, Cotta, arbitrarer aut te, Sulpici, de 104
eis rebus audire velle, adduxissem huc Graecum aliquem, qui vos istius modi disputationibus delectaret; quod ne nunc quidem difficile factu est: est enim apud M. Pisonem adulescentem iam huic studio deditum, summo hominem ingenio nostrique cupidissimum, Peripateticus Staseas homo nobis sane familiaris et, ut inter homines peritos constare video, in illo suo genere omnium princeps.' 'Quem 23
tu mihi' inquit Mucius 'Staseam, quem Peripateticum 105
narras? gerendus est tibi mos adulescentibus, Crasse, qui non Graeci alicuius cotidianam loquacitatem sine usu neque ex scholis cantilenam requirunt, sed ex homine omnium sapientissimo atque eloquentissimo atque ex eo, qui non in libellis, sed in maximis causis et in hoc domicilio imperii et gloriae sit consilio linguaque princeps, cuius vestigia persequi cupiunt, eius sententiam sciscitantur:

special calling, their peculiar métier. § 116.

10 [*Staseas* of Neapolis lived for a long time in the house of Piso as his teacher: cf. de Fin. v. 3. 8; 25, 75] P.

12 *Quem tu mihi*] ad Fam. IX. 16. 7, quem tu mihi Pompilium, quem Denarium narras? Verr. II. 32. 79, quem tu mihi Balbum, quem Staienum? Scaevola compensates for the admonitory reproof, which he however only expresses in jest, by the ex. h. o. s., and appeals in the interest of the two young men (§ 164) to the well-known courtesy of Crassus (§ 27).

16 *cantilenam*] referring to the monotonous pedantic delivery of constantly recurring rhetorical formulae pitched to the notes of a lyre (carmine) § 245; II. 18. 75.

ex homine] suggested by the preceding ex scholis; but afterwards instead of going on regularly after princeps with aliquid audire cupiunt, Sc. introduces for the first time that which ought to be the strongest motive for Crassus, but then forgets in his eagerness the aliquid audire cupiunt, and instead of it puts in closest connection with the foregoing cuius and with especial emphasis as the sum of all the phrase, equivalent in meaning, *eius* sententiam sciscitantur. Scaevola pays no particular regard to style. § 214.

18 *in libellis*] like the rhetoricians, who only employ themselves 'in the book-world' of their dry compendiums. [*dom. imp.* cf. pro Balb. 5. 13.]

equidem te cum in dicendo semper putavi deum, tum vero 106
tibi numquam eloquentiae maiorem tribui laudem quam
humanitatis; qua nunc uti vel maxime decet te neque
defugere eam disputationem, ad quam te duo excellentes
ingeniis adulescentes cupiunt accedere.' 'Ego vero' inquit 107
'istis obsequi studeo neque gravabor breviter meo more,
quid quaque de re sentiam, dicere. Ac primum illud—
quoniam auctoritatem tuam neglegere, Scaevola, fas mihi
non esse puto—respondeo, mihi dicendi aut nullam artem
aut pertenuem videri, sed omnem esse contentionem inter
homines doctos in verbi controversia positam; nam si ars 108
ita definitur, ut paullo ante exposuit Antonius ex rebus
penitus perspectis planeque cognitis atque ab opinionis
arbitrio seiunctis scientiaque comprehensis, non mihi vide-
tur ars oratoris esse ulla; sunt enim varia et ad volgarem
popularemque sensum adcommodata omnia genera huius
forensis nostrae dictionis; sin autem ea, quae observata 109
sunt in usu ac tractatione dicendi, haec ab hominibus
callidis ac peritis animadversa ac notata, verbis designata,
generibus illustrata, partibus distributa sunt—id quod
video potuisse fieri—, non intellego, quam ob rem non, si
minus illa subtili definitione, at hac volgari opinione ars

1 *deum*] as the ideal of all perfection; 'qui sit consummatus undique et, ut dicunt, mortalis quidam deus' (Quint. I. 10. 5). II. 42. 179, 180; III. 14. 53. Hence Plato, deus ille noster, quasi quidam deus philosophorum; "the highest ideal."

4 *eam disputationem*] first of all about the questions started by Sulpicius.

7 *primum*] corresponding to the primum of § 102.

8 *auctoritatem*] 'your advice, judgment,' inasmuch as Scaevola had just expressed his opinion that Crassus *ought* not to decline [gerendus est tibi mos]. In this there lay a moral obligation for him, which was stronger than his own inclination.

11 *in verbi controversia.*

12 *paullo ante*] § 92.

17 *observata*] all the various rules which unconsciously and rather instinctively are actually observed in the practice of an orator.

19 *animadversa*] consciously brought before the eyes: *notata*, fixed by written records: *verbis designata*, determined by conceptions: *generibus illustrata*, brought into light by a comprehension under the common categories: *partibus distributa*, divided according to the single subdivisions. II. 8. 32. [Kayser, verbis definita.]

18 *haec*] this and no more.

esse videatur. Sed sive est ars sive artis quaedam similitudo, non est ea quidem neglegenda; verum intellegendum est alia quaedam ad consequendam eloquentiam esse maiora.' Tum Antonius vehementer se adsentiri Crasso 24
dixit, quod neque ita amplecteretur artem, ut ei solerent, 110
qui omnem vim dicendi in arte ponerent, neque rursus eam totam, sicut plerique philosophi facerent, repudiaret. 'Sed existimo' inquit 'gratum te his, Crasse, facturum, si ista exposueris, quae putas ad dicendum plus, quam ipsam artem posse prodesse.' 'Dicam equidem, quoniam institui, 111
petamque a vobis,' inquit 'ne has meas ineptias efferatis; quamquam moderabor ipse, ne ut quidam magister atque artifex, sed quasi unus e togatorum numero atque ex forensi usu homo mediocris neque omnino rudis videar non ipse a me aliquid promisisse, sed fortuito in sermonem

1 *artis similitudo*] II. 8. 32; 87. 356.

4 *adsentiri*] not adsentire (as many mss. have); cf. § 126; II. 10. 39; 12. 50.

[*assentior* fere omnes dicunt: Sisenna unus *assentio* in senatu dicebat, et eum postea multi secuti sunt, neque tamen vincere consuetudinem potuerunt. Varro ap. Gell. II. 25. 9.]

10 *Here Cr. passes over to the statement of the points which are incomparably more important, for an introduction which precedes a peculiar theory of the art of oratory (the technological portion) which has principally to concern itself with the orator's preparations, than long delays over questions, such as the preceding* (24, 111—47, 204).

11 *ineptias*] II. 4. 18. *efferatis*, 'publish abroad,' § 192; II. 1. 4.

13 *unus e togatorum numero*] like a simple plain genuine Roman citizen (who wears no other dress than his national toga [cf. Verg. Aen. 1. 282, Romanos rerum dominos, *gentemque togatam*], not like a Graecus homo doctus, § 102, just as de Rep. I. 22, 36, Scipio says of himself: Quam ob rem peto a vobis, ut me sic audiatis neque ut omnino expertem Graecarum rerum neque ut eas nostris in hoc praesertim genere anteponentem, sed ut *unum e togatis*, patris diligentia non illiberaliter institutum, studioque discendi a pueritia incensum, usu tamen et domesticis praeceptis multo magis eruditum, quam litteris. cf. below, §§ 132, 159.

14 *homo mediocris*] § 94.

15 *sed* sc. *ut* videar] which by a customary Zeugma must be understood from the preceding ne (§§ 134, 229) as in Hor. Sat. I. 1. 3 the positive quisque, from the negative nemo.

a me] 'so that I was the originator and the matter proceeded from me' [*παρ' ἐμοῦ*] (*de me* [Pearce's correction], with regard to myself and my capability'). The words are sharply contrasted, ipse with fortuito, a me with sermonem vestrum, and promisisse with incidisse.

vestrum incidisse. Equidem cum peterem magistratum, 112
solebam in prensando dimittere a me Scaevolam, cum ita
ei dicerem, me velle esse ineptum, id erat, petere blandius,
quod, nisi inepte fieret, bene non posset fieri;—hunc autem
esse unum hominem ex omnibus, quo praesente ego inep-
tum esse me minime vellem—quem quidem nunc mearum
ineptiarum testem et spectatorem fortuna constituit: nam
quid est ineptius, quam de dicendo dicere, cum ipsum di-
cere nunquam sit non ineptum, nisi cum est necessa-
rium?' 'Perge vero, Crasse,' inquit Mucius; 'istam enim 113
culpam, quam vereris, ego praestabo.' 'Sic igitur' inquit
Crassus 'sentio, naturam primum atque ingenium ad di-
cendum vim adferre maximam; neque vero istis, de qui-
bus paullo ante dixit Antonius, scriptoribus artis rationem
dicendi et viam, sed naturam defuisse; nam et animi
atque ingenii celeres quidam motus esse debent, qui et
ad excogitandum acuti et ad explicandum ornandumque
sint uberes et ad memoriam firmi atque diuturni: et si 114
quis est, qui haec putet arte accipi posse,—quod falsum
est; praeclare enim se res habeat, si haec accendi aut
commoveri arte possint, inseri quidem et donari ab arte
non possunt; omnia sunt enim illa dona naturae—quid
de illis dicet, quae certe cum ipso homine nascuntur,
linguae solutio, vocis sonus, latera, vires, conformatio quae-

1 *magistratum.* Valer. Max. IV. 5 (de verecundia), 4, consulatum petens L. Crassus, cum omnium candidatorum more circum forum supplex populo ire cogeretur, numquam adduci potuit, ut id praesente Q. Scaevola, gravissimo et sapientissimo viro, socero suo, faceret. Itaque rogabat eum, ut a se, dum ineptae rei deserviret, discederet: maiorem verecundiam dignitatis eius quam candidae togae suae respectum agens.

11 *praestabo*] pro Sest. 16. 38, ex conditione gesseram, ut merum factum semper omnes *praestare* tuerique deberent. 'I will undertake to answer for it,' and thus free you from the responsibility. ad Fam. IX. 16. 5.

14 *paullo ante*] § 91.

16 *motus*] activity. *ad excogitandum*, for the inventio: *ad explicandum*, for the collocatio: *ornandumque*, for the elocutio, and then above all (§ 114 sq.) for the actio, as quasi sermo *corporis* (III. 59. 222).

20 *habeat*] καλῶς ἂν ἔχοι, εἰ δύναιτο, 'at best, that the spark already there should be able to be fanned into a flame by education, the slumbering talents be aroused.' [Kayser, *habet* and *possunt*.]

24 *linguae solutio*] a ready tongue

dam et figura totius oris et corporis? neque haec ita dico, 115
ut ars aliquos limare non possit—neque enim ignoro, et
quae bona sint, fieri meliora posse doctrina et, quae non
optima, aliquo modo acui tamen et corrigi posse—, sed
sunt quidam aut ita lingua haesitantes aut ita voce absoni
aut ita voltu motuque corporis vasti atque agrestes, ut,
etiamsi ingeniis atque arte valeant, tamen in oratorum
numerum venire non possint, sunt autem quidam ita in
eisdem rebus habiles, ita naturae muneribus ornati, ut
non nati, sed ab aliquo deo ficti esse videantur. Magnum 116
quoddam est onus atque munus suscipere ac profiteri
se esse, omnibus silentibus, unum maximis de rebus magno
in conventu hominum audiendum; adest enim fere nemo,
quin acutius atque acrius vitia in dicente, quam recta
videat; ita quicquid est, in quo offenditur, id etiam illa,
quae laudanda sunt, obruit. Neque haec in eam senten- 117
tiam disputo, ut homines adulescentes, si quid naturale
forte non habeant, omnino a dicendi studio deterream:
quis enim non videt C. Caelio, aequali meo, magno honori

[cf. ἐλύθη ὁ δεσμὸς τῆς γλώσσης αὐτοῦ. Mark vii. 35] opposed to lingua haesitantes: *vocis sonus*, a resonant voice, opposed to voce absoni: *latera*, stout chest and good lungs [cf. 60. 255]. *vires*, strong constitution.

3 *non optima*] in a euphemistic negative form, for he did not venture to say prava.

6 *ut*] limited by the preceding *ita*; this must not be so understood that, &c. [*limare*, cf. I. 39. 180; III. 39. 6.]

[*vasti*, a sense derived from the notion of countries lying waste; (cf. § 117) 'rough,' 'uncultivated'.]

atque agrestes] in spite of the fact, that these two qualifications are present.

10 *ficti*] created to that very end; like the work of a plastic artist. §§ 118, 127.

Magnum. The observation that besides intellectual gifts and a training in art and science the specified corporal advantages are absolutely necessary to an orator, will not appear remarkable to him, who knows the greatness of the task of the orator (hence magnum, put first with special emphasis) and besides reflects that the question is here of the conception of the true and perfect orator. From this twofold view then verecundia also follows.

11 *suscipere ac profiteri*] is the subject. For the minor of the two verbs (or suscipere et polliceri) cf. §§ 21, 103; II. 36. 153; III. 6. 22. *unum*, § 31. *Adest*, &c., § 125.

15 [*in quo offenditur*, 'at which people stumble.']

19 [*C. Caelio*. Caelius had won the favour of the people as tribune in 107 by a lex tabellaria, and hence succeeded, although a novus homo, in winning the consulship for 94.

fuisse, homini novo, illam ipsam, quamcumque adsequi potuerit, in dicendo mediocritatem? quis vestrum aequalem, Q. Varium, vastum hominem atque foedum, non intellegit illa ipsa facultate, quamcumque habuit, magnam esse in civitate gratiam consecutum? Sed quia de oratore 26
quaerimus, fingendus est nobis oratione nostra detractis 118
omnibus vitiis orator atque omni laude cumulatus. Neque enim, si multitudo litium, si varietas causarum, si haec turba et barbaria forensis dat locum vel vitiosissimis oratoribus, idcirco nos hoc, quod quaerimus, omittemus. Itaque in eis artibus, in quibus non utilitas quaeritur necessaria, sed animi libera quaedam oblectatio, quam diligenter et quam prope fastidiose iudicamus! nullae enim lites neque controversiae sunt, quae cogant homines sicut in foro non bonos oratores, item in theatro actores malos perpeti. Est igitur oratori diligenter providendum, 119

In later years he was a Marian. Cicero pronounces the following opinion on him in Brut. 45: industriam in eo summam fuisse summasque virtutes, eloquentiae tantum, quod esset in rebus privatis amicis eius, in republica ipsius dignitate satis] P.

2 *mediocritatem*] Brut. 52. 123, vulgus interdum non probandum oratorem probat, sed probat sine comparatione: cum a mediocri aut etiam a malo delectatur, eo est contentus; esse melius non sentit, illud quod est, qualecunque est, probat: tenet enim aures vel mediocris orator, sit modo aliquid in eo.

vestrum aequalem] Brut. 49. 182, aequales propemodum fuerunt C. Cotta, P. Sulpicius, Q. Varius.

3 [*Q. Varium.* The man who accused Aemilius Scaurus, Q. Pompeius, L. Sulla, M. Antonius, and others, during the Social War for sympathy with the Italians; on which occasion Scaurus made his celebrated defence.]

7 *Neque enim*] Whether occasionally individual mediocre orators have still met with good success, is not to be decided here: the standard for the art of oratory is the same as that which we lay down in all the fine arts; pure pleasure.

9 *barbaria forensis*] referring especially to the language. Brut. 74. 258, confluxerunt enim in hanc urbem multi inquinati loquentes ex diversis locis: and shortly before; nec eos aliqua *barbaries* domestica infuscaverat.

11 *Itaque*] because we always find there something perfect to see or to hear.

13 *fastidiose*] 'daintily,' 'nicely,' § 258. Hor. Art. Poet. 368 sqq. certis medium et tolerabile rebus | recte concedi—consultus iuris et actor | Causarum mediocris abest virtute diserti | Messallae, nec scit quantum Cascellius Aulus | Sed tamen in pretio est—mediocribus esse poetis | Non homines, non di, non concessere columnae.

non uti eis satis faciat, quibus necesse est, sed ut eis admirabilis esse videatur, quibus libere liceat iudicare; ac, si quaeritis, plane quid sentiam enuntiabo apud homines familiarissimos, quod adhuc semper tacui et tacendum putavi: mihi etiam qui optime dicunt quique id facillime atque ornatissime facere possunt, tamen, nisi timide ad dicendum accedunt et in exordienda oratione perturbantur, paene impudentes videntur,—tametsi id accidere non potest; ut enim quisque optime dicit, ita maxime dicendi 120 difficultatem variosque eventus orationis exspectationemque hominum pertimescit;—qui vero nihil potest dignum re, dignum nomine oratoris, dignum hominum auribus efficere atque edere, is mihi, etiamsi commovetur in dicendo, tamen impudens videtur; non enim pudendo, sed non faciendo id, quod non decet, impudentiae nomen effugere debemus; quem vero non pudet,—id quod in 121 plerisque video—hunc ego non reprehensione solum, sed etiam poena dignum puto. Equidem et in vobis animadvertere soleo et in me ipso saepissime experior, ut exalbescam in principiis dicendi et tota mente atque artubus omnibus contremiscam; adulescentulus vero sic initio ac-

4 *tacendum*] because the subject is too delicate to say much about it, and hence it can only be mentioned in a trusted circle of friends.

11 *qui vero*] naturally, this timidity and confusion could not rest upon incapacity and weakness: he who is not in a condition to effect anything, and still appears in public as an orator, ipso facto reveals his impudentia.

14 [*pudendo*, cf. Madvig, § 218 a. obs. 3.]

21 *contremiscam*. Div. in Caec. 13, 44. Ego, qui—in foro iudicisque ita verser, ut eiusdem aetatis aut nemo aut pauci plures causas defenderint, et qui omne tempus—in his studiis laboribusque consumam, quo paratior ad usum forensem promptiorque esse possim, tamen ita mihi deos velim propitios, ut, cum illius temporis mihi venit ad mentem, quo die citato res mihi dicendum sit, non solum *commoveor animo, sed etiam toto corpore perhorresco*. pro Deiot. 1. 1, cum in omnibus causis gravioribus—*initio commoveri* vehementius soleam. pro Cluent. 18. 51, semper, equidem *magno cum metu* incipio dicere. [This is one proof among many that Cicero intended Crassus to be the mouthpiece of his own sentiments in this dialogue. Compare the maiden speech of the third Lord Shaftesbury on the Bill for regulating Trials in cases of High Treason. Macaulay, Hist. vol. IV. c. XXI.]

adulescentulus, § 40.

cusationis exanimatus sum ut hoc summum beneficium Q. Maximo debuerim, quod continuo consilium dimiserit, simul ac me fractum ac debilitatum metu viderit.' Hic 122 omnes adsensi significare inter se et colloqui coeperunt; fuit enim mirificus quidam in Crasso pudor, qui tamen non obesset eius orationi, sed probitatis commendatione prodesset. Tum Antonius 'saepe, ut dicis,' inquit 'ani- 27 madverti, Crasse, et te et ceteros oratores summos, quamquam tibi par mea sententia nemo umquam fuit, in dicendi exordio permoveri; cuius quidem rei cum causam 123 quaererem, quidnam esset, cur, ut in quoque oratore plurimum esset, ita maxime is pertimesceret, has causas inveniebam duas: unam, quod intellegerent ei, quos usus ac natura docuisset, non numquam summis oratoribus non satis ex sententia eventum dicendi procedere; ita non iniuria, quotienscumque dicerent, id, quod aliquando posset accidere, ne tum ipsum accideret, timere; altera est 124 haec, de qua queri saepe soleo: quod ceterarum homines artium spectati et probati, si quando aliquid minus bene fecerunt, quam solent, aut noluisse aut valetudine impediti non potuisse consequi id, quod scirent, putantur:

2 *Q. Maximo*] probably Q. Fabius Maximus Eburnus, consul in 116, who in 119 was praetor presiding over the quaestio de maiestate. As such he could terminate the sitting which he opened at any time (consilium dimittere or merely dimittere ['make the court rise']).

4 *significare*] make it understood by look and gesture how truly Crassus had spoken.

6 *probitatis*] which revealed itself in his very pudor. II. 52. 211. [On this ἦθος τοῦ λέγοντος cf. II. 27. 115, Ar. Rhet. I. 2. 3, 4, and Cope's Introd. p. 109.]

7 *Antonius*] (for the observer from without can do this much better) gives the reasons of this appearance, and thereby leads up to the further previous qualifications of a good orator.

11 *ut in quoque—ita*] just like § 120, cf. I. 49. 217, 28. 130. [Ellendt and Orelli read *quoquo* and omit *ut*: *quoquo* then = qualicumque.]

13 *unam*] corresponds to the subsequent altera est, in independent connection, just as Brut. 95. 325.

15 [*ex sententia*, 'satisfactorily,' 'as they could have wished,' cf. the amusing play upon the various meanings of the phrase in II. 64. 269]

17 *tum ipsum*] de Fin. II. 50. 65, quem (Regulum)—*tum ipsum*, cum vigiliis et fame cruciaretur, clamat virtus beatiorem fuisse quam potantem in rosa Thorium.

18 *ceterarum homines artium*] § 128; II. 9. 37, and 38.

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ignosci, ceteris ipse non ignosco; nam qui non potest, qui vitiose facit, quem denique non decet, hunc, ut Apollonius iubebat, ad id, quod facere possit, detrudendum puto.' 29
'Num tu igitur' inquit Sulpicius 'me aut hunc Cottam 131
ius civile aut rem militarem iubes discere? nam quis ad ista summa atque in omni genere perfecta potest pervenire?' tum ille 'ego vero,' inquit 'quod in vobis egregiam quandam ac praeclaram indolem ad dicendum esse cognovi, idcirco haec exposui omnia; nec magis ad eos deterrendos, qui non possent, quam ad vos, qui possetis, exacuendos adcommodavi orationem meam; et quamquam in utroque vestrum summum esse ingenium studiumque perspexi, tamen haec, quae sunt in specie posita, de quibus plura fortasse dixi, quam solent Graeci dicere, in te, Sulpici, divina sunt; ego enim neminem nec motu cor- 132
poris neque ipso habitu atque forma aptiorem nec voce pleniorem aut suaviorem mihi videor audisse; quae quibus a natura minora data sunt, tamen illud adsequi possunt, ut eis, quae habent, modice et scienter utantur et ut ne dedeceat. Id enim est maxime vitandum et de hoc uno minime est facile praecipere non mihi modo, qui sicut unus paterfamilias his de rebus loquor, sed etiam ipsi illi

3 *detrudendum*] § 46, 'to a lower point of view.' cf. II. 20. 85.

13 *in specie*] 'the external conditions of a beautiful figure, &c.' *plura*, § 114 sqq.

14 *Graeci*] esp. Aristotle and Theophrastus. *Sulpici* [Brut. 55. 203. Fuit enim S. vel maxime omnium quos quidem ego audiverim, grandis et ut ita dicam tragicus orator. Vox cum magna tum suavis et splendida; gestus et motus corporis ita venustus, ut tamen ad forum non ad scaenam institutus videretur, incitata et volubilis, nec ea redundans tamen nec circumfluens oratio] P.

19 *modice et scienter*] 'with wise moderation and intelligent apprehension of the limits assigned to him,' with reference to Cotta. Brut. 55. 202, Cotta—ut ad infirmitatem laterum perscienter contentionem omnem remiserit, sic ad virium imbecillitatem dicendi accommodabat genus.

21 *sicut unus paterfamilias*] like a Roman citizen of the earliest and best times; hence, like an uncultivated layman, without possessing any special theoretical knowledge, as the phrase is used below, § 159, quemcumque patrem-familias adripuissetis. Unus is therefore used here with a force of indefinite generality, just as in ad Att. XI. 10. 2, me una haec res torquet, quod non omnibus in rebus labentem vel potius ruentem Pom-

Roscio, quem saepe audio dicere caput esse artis decere, quod tamen unum id esse, quod tradi arte non possit. Sed, si placet, sermonem alio transferamus et nostro more 133 aliquando, non rhetorico, loquamur.' 'Minime vero,' inquit Cotta; 'nunc enim te iam exoremus necesse est, quoniam retines nos in hoc studio nec ad aliam dimittis artem, ut nobis explices,—quicquid est istud, quod tu in dicendo potes; neque enim sumus nimis avidi; ista tua mediocri eloquentia contenti sumus—idque ex te quaerimus, (ut ne plus nos adsequamur, quam quantulum tu in dicendo adsecutus es) quoniam, quae a natura expetenda sunt, ea dicis non nimis deesse nobis, quid praeterea esse adsumendum putes?' tum Crassus adridens 'quid censes,' 30 inquit 'Cotta, nisi studium et ardorem quendam amoris? 134 sine quo cum in vita nihil quicquam egregium, tum certe

peium tamquam *unus manipularis* secutus sim. The indefinite pronoun is usually expressed (*εἷς τις*): Brut. 93. 320, quantum non *quivis unus* ex populo, sed existimator doctus et intellegens posset cognoscere. pro Caec. 22. 62, sin tu solus aut *quivis unus* cum scuto et gladio impetum in me fecisset. de Off. II. 12. 41, ad *unum aliquem* [cf. § 9] confugiebant virtute praestantem: or the indefinite pronoun stands alone, as in III. 11. 43, quivis Atheniensis indoctus. ["Handius in libro suo de stilo Latino utilissimo p. 313 *unum* sic dictum significare *plenum et perfectum* (ganz vollkommen) ut *unus paterfamilias* sit is qui personam patris familias totus induerit. Mihi *unus* dictum videtur pro quopiam *s.* qualicunque, *ἀνὴρ ἰδιώτης ὁποῖος δή ποτε*. Ell. Kayser inserts after *pat.* *e multis*, cf. Brut. 79. 274, non fuit orator unus e multis]. (Those passages are quite different where unus serves to increase the force of a superlative; § 171; Phil. II. 3. 7, cum uno gladiatore nequissimo.)

2 *tradi arte*] the decorum depends upon feeling (correct tact), and for that very reason defies general theoretic rules. Or. 21. 70, ut enim in vita, sic in oratione nihil est difficilius quam *quid deceat* videre: *τὸ πρέπον*, decorum.

3 *nostro more*] 'as I am accustomed to do,' an expression which Cicero often uses in order to justify himself to a certain extent for having ventured to put such expositions of the theory of rhetoric into the mouth of a Crassus, § 163. Cr. lets himself be prevailed upon: and the fact that it is not Sulpicius, the devoted admirer of Crassus, but Cotta, who prays for the continuation of the disquisition, gives so much the more force to the request.

9 *mediocri*] with an ironical litotes, as afterwards quantulum, and the emphatic ut ne.

11 *quoniam.*] The second quoniam not only takes up the first again after the parenthesis, but also gives now the special motive for the request; ut nobis explices, quid *praeterea* esse adsumendum putes.

14 *ardorem quendam amoris*] *ἐρωτική τις μανία*, Plat. Phaedr. p. 265 B.

hoc, quod tu expetis, nemo umquam adsequetur. Neque vero vos ad eam rem video esse cohortandos, quos, cum mihi quoque sitis molesti, nimis etiam flagrare intellego cupiditate. Sed profecto studia nihil prosunt perveniendi 135 aliquo, nisi illud, quod eo, quo intendas, ferat deducatque, cognoris. Qua re quoniam mihi levius quoddam onus imponitis neque ex me de oratoris arte, sed de hac mea, quantulacumque est, facultate quaeritis, exponam vobis non quandam aut perreconditam aut valde difficilem aut magnificam aut gravem consuetudinis meae rationem, qua quondam solitus sum uti, cum mihi in isto studio versari adulescenti licebat.' Tum Sulpicius 'o diem, Cotta, nobis' 136 inquit 'optatum! quod enim neque precibus umquam nec insidiando nec speculando adsequi potui, ut, quid Crassus ageret meditandi aut dicendi causa, non modo videre mihi, sed ex eius scriptore et lectore Diphilo suspicari liceret, id spero nos esse adeptos omniaque iam ex ipso, quae diu cupimus, cognituros.'

Tum Crassus 'atqui arbitror,' Sulpici, 'cum audieris, 31 non tam te haec admiraturum, quae dixero, quam existi- 137 maturum tum, cum ea audire cupiebas, causam cur cuperes non fuisse; nihil enim dicam reconditum, nihil ex-

1 *nemo*] out of which the positive conception must be supplied to nihil quidquam (§ 111): for even if nemo is not placed before (as usually), it still includes the principal thought, and therefore virtually precedes in its effect that which is placed before it.

3 *molesti*] 'set upon me so,' 'press me so,' as II. 20. 85.

4 To the pursuit of rhetoric belong first of all the theoretical and practical preliminary exercises or progymnasmata, which Cr. *will state*, as he *went* through them.

Sed etc.] Quint. X. 7. 5, Neque enim prius contingere cursus potest, quam scierimus, quo sit et qua perveniendum.

8 *exponam*] with pregnant brevity; exponam vobis rationem consuetudinis meae non quandam aut perreconditam etc. rationem, if indeed *sed* has not fallen out before consuetudinis.

14 *insidiando*] by keenly watching, and laying wait. Or. 62. 210, non enim id agit, ut insidietur et observet.

16 *scriptore*] the writer and reader (*ἀναγνωστής*) Diphilus; such distinguished Romans used to keep in their service (servi litterati, Brut. 22. 87). [Cf. a manu servus, Suet. Caes. 74, anagnostes noster—Cic. Att. I. 12.]

19 In the following passage Cr. gives a short view of the usual system of teaching rhetoric, and his judgment about its value.

atqui] § 129.

spectatione vestra dignum, nihil aut inauditum vobis aut cuiquam novum. Nam principio, id quod est homine ingenue liberaliterque educato dignum, non negabo me ista omnium communia et contrita praecepta didicisse: pri- 133
mum oratoris officium esse dicere ad persuadendum adcommodate; deinde esse omnem orationem aut de infinitae rei quaestione sine designatione personarum et temporum aut de re certis in personis ac temporibus locata; in utraque autem re quicquid in controversiam 139
veniat, in eo quaeri solere aut factumne sit aut, si est factum, quale sit aut etiam quo nomine vocetur aut, quod non nulli addunt, rectene factum esse videatur; exsistere 140
autem controversias etiam ex scripti interpretatione, in quo aut ambigue quid sit scriptum aut contrarie aut ita, ut a sententia scriptura dissentiat; his autem omnibus partibus subiecta quaedam esse argumenta propria. Sed 141
causarum, quae sint a communi quaestione seiunctae, partim in iudiciis versari, partim in deliberationibus; esse etiam genus tertium, quod in laudandis aut vituperandis hominibus poneretur; certosque esse locos, quibus in iudiciis uteremur, in quibus aequitas quaereretur; alios in deliberationibus, quae omnes ad utilitatem dirigerentur eorum, quibus consilium daremus; alios item in laudationibus, in quibus ad personarum dignitatem omnia referrentur; cumque esset omnis oratoris vis ac facultas in 142
quinque partes distributa, ut deberet reperire primum quid diceret, deinde inventa non solum ordine sed etiam momento quodam atque iudicio dispensare atque compo-

4 *communia et contrita*] § 165. Or. 3. 11, reprehendent quod inusitatas vias indagemus, *tritas* relinquamus.

9 *In utraque re*] 'in either case.' [*controv. ex script. interpr.* cf. II. 26. 110; 30. 141, &c.]

17 *causarum—partim*] as in II. 22. 94. [Madvig, § 284, obs. 4.]

[*locos*, § 56.]

dirigerentur, § 130.

26 [*quinque partes*, § 64.]

28 *momento*] objective, 'according to the weight of this importance. (II. 76. 309; 78. 319): iudicio, subjective, 'with conscious disposition and calculation according to determined principles.'

nere; tum ea denique vestire atque ornare oratione; post memoria saepire; ad extremum agere cum dignitate ac venustate; etiam illa cognoram et acceperam, ante quam 143
de re diceremus, initio conciliandos eorum esse animos, qui audirent; deinde rem demonstrandam; postea controversiam constituendam; tum id, quod nos intenderemus, confirmandum; post, quae contra dicerentur, refellenda; extrema autem oratione ea, quae pro nobis essent, amplificanda et augenda, quaeque essent pro adversariis, infirmanda atque frangenda. Audieram etiam quae de 32
orationis ipsius ornamentis traderentur, in qua praecipitur 144
primum, ut pure et Latine loquamur, deinde ut plane et dilucide, tum ut ornate, post ad rerum dignitatem apte et quasi decore; singularumque rerum praecepta cogno- 145
ram; quin etiam, quae maxime propria essent naturae, tamen his ipsis artem adhiberi videram; nam de actione et de memoria quaedam brevia, sed magna cum exercitatione praecepta gustaram. In his enim fere rebus omnis istorum artificum doctrina versatur, quam ego si nihil dicam adiuvare, mentiar; habet enim quaedam quasi ad

5 *rem demonstrandam*] to state the substance of the case in the *narratio* as II. 81. 330. *amplificando* [the peroratio was divided into the enumeratio (recapitulation), the amplificatio (αὔξησις) (III. 27. 104), and the commiseratio.] P.

11 *in qua*] sc. oratione, with reference to which.

12 *ut pure*] etc. the more detailed treatment of this subject follows in III. 10. 37 sqq., 25. 96 sqq. [Latine, 'in good Latin,' as memoriter, 'accurately from memory': cf. de Opt. Gen. Or. 2. 4, pure et accurate loquentes, quod est, Latine.]

14 *et*] therefore about the two divisions, which, being closely connected by the natural arrangement, cannot be separated in instruction: besides actio is in fact *corporis* quasi sermo, III. 59. 222; Or. 17. 55. Cf. § 18. (Perhaps et has fallen out before actio).

17 *quaedam*] is perhaps (as immediately afterwards) to be taken substantively: 'something,' which in comparison with the comprehensive expositions about inventio and especially the status causae is indeed comprised in a very small compass, but by the personal skill of the rhetor (magna cum exercitatione, III. 21. 78, 80) was brought under rules (praecepta).

18 *In his enim*] with this Cr. closes his whole lucid exposition of the school-system of rhetoric.

19 *si dicam—mentiar*] as Lael. 3. 10. Ego si Scipionis desiderio me moveri negem—certe mentiar. [The present conjunctive is employed when a con-

commonendum oratorem, quo quidque referat et quo intuens ab eo, quodcumque sibi proposuerit, minus aberret. Verum ego hanc vim intellego esse in praeceptis omnibus, 146
non ut ea secuti oratores eloquentiae laudem sint adepti,
sed, quae sua sponte homines eloquentes facerent, ea quosdam observasse atque digessisse; sic esse non eloquentiam ex artificio, sed artificium ex eloquentia natum; quod tamen, ut ante dixi, non eiicio; est enim, etiam si minus necessarium ad bene dicendum, tamen ad cognoscendum non illiberale; et exercitatio quaedam suspicienda 147
vobis est; quamquam vos quidem iam pridem estis in cursu; sed eis, qui ingrediuntur in stadium, quique ea, quae agenda sunt in foro tamquam in acie, possunt etiam

dition that is *still possible* is assumed as occurring now or at some future time, while it is at the same time intimated that it will not actually occur. 'If I were to say—I should speak an untruth,' but I do not intend to. Cf. Madvig, § 347 b. Care should be taken not to use the Latin impf. conj. in translating the English imperfect in such cases, but the pres. conj.]

1 *quo quidque referat*] II. 27. 117.

5 *sua sponte*] without theoretical instruction, 'instinctively,' beneficio ingenii (Quint. v. 10. 121), cf. II. 46. 193.

6 *digessisse*] So (or perhaps even *coegisse*, § 191. II. 33. 142, ad Her. IV. 40. 52) we must read for the meaningless id egisse; as Quint. v. 10. 119 sqq, who evidently had this passage before his eyes and employed it for his subject, clearly shows: Haec non idcirco dico, quod inutilem horum locorum—cognitionem puto—sed ne se qui cognoverint ista—perfectos protinus atque consummatos putent—Neque enim artibus editis factum est, ut argumenta inveniremus, sed dicta sunt omnia, antequam praeciperentur, *mox ea scriptores observata et collecta* ediderunt; put together in a certain order and classification (§§ 108, 186, 190; II. 19. 79, ad fin.) [Kayser reads id egisse*, Ell. would explain it, ei rei operam dedisse].

8 *eiicio*] II. 24. 102, 'I do not altogether reject.'

10 *exercitatio*] To learn the theory of rhetoric it is necessary, at least for those who are at the beginning of their career, to enter also upon a definite practical exercise.

11 *quamquam*] a rhetorical correction or recalling of the just-employed vobis; *sed* after the parenthesis as in § 163.

12 *ingrediuntur in stadium*] a phrase used of those who enter upon a career, in order to begin their course from the very starting-point. Hence ingred. alone in the sense: Or. 23 75, magnum opus et arduum—sed *ingredientibus* (before one is yet out at sea) considerandum fuit, quid ageremus, nunc quidem iam quocunque feremur danda nimirum vela sunt.

13 *acie*] §§ 81, 157, *quasi ludicra*, II. 20. 84, i. e. quasi in ludo gladiatorio, the palaestra, the fighting and wrestling school, as Div. in Caec. 14. 47, prolusio and ipsa pugna are opposed.

nunc exercitatione quasi ludicra praediscere ac meditari.' 'Hanc ipsam' inquit Sulpicius 'nosse volumus; ac tamen 148
ista, quae abs te breviter de arte decursa sunt, audire cupimus, quamquam sunt nobis quoque non inaudita;
5 verum illa mox; nunc de ipsa exercitatione quid sentias quaerimus.' 'Equidem probo ista,' Crassus inquit 'quae 33
vos facere soletis, ut, causa aliqua posita consimili cau- 149
sarum earum, quae in forum deferuntur, dicatis quam maxime ad veritatem accommodate; sed plerique in hoc
10 vocem modo, neque eam scienter, et vires exercent suas et linguae celeritatem incitant verborumque frequentia delectantur; in quo fallit eos, quod audierunt, dicendo homines, ut dicant, efficere solere; vere enim etiam illud 150
dicitur, perverse dicere homines perverse dicendo facillime
15 consequi. Quam ob rem in istis ipsis exercitationibus, etsi utile est etiam subito saepe dicere, tamen illud utilius, sumpto spatio ad cogitandum paratius atque accuratius dicere. Caput autem est, quod, ut vere dicam, minime facimus; est enim magni laboris, quem plerique fugimus:
20 quam plurimum scribere. Stilus optimus et praestantissimus dicendi effector ac magister neque iniuria; nam si subitam et fortuitam orationem commentatio et cogitatio

1 *meditari*] like μελετᾶν [from which it is prob. derived; cf. δάκρυον and lacruma] 'to practise' [cf. § 260].

2 *ac tamen*] 'and still beside all that.'—*mox*, cf. § 205.

6 The first προγύμνασμα, if it be practised aright and be not too open to objection, is to give oneself a subject after the analogy of a real case in law, and then to handle this assumed case, as if it were a real one, Brut. 90. 310; Tusc. I. 4. 7; Sen. Contr. I. p. 63.

9 *ad veritatem accommodate*] Or. 12. 38, in veritate causarum, corresponding to reality. §§ 157, 220; II. 23. 94; III. 56. 214.

12 *audierunt*] from the Greeks, i.e. according to their proverb, ἐκ τοῦ λέγειν τὸ λέγειν πορίζεται.

20 *Stilus*] § 257; III. 49. 190. Brut. 24. 92, nulla enim res tantum ad dicendum proficit quantum scriptio. 25. 96, artifex, ut ita dicam, stilus. Ad Fam. VII. 25. 2, stilus est dicendi opifex. [n. b. stilus in the sense of our 'style' is only post-Augustan Latinity: in Cicero it always means either the instrument for writing with, or its employment (as here)].

22 *commentatio*] 'preparation for,' as in the well-known proverb: tota philosophorum vita commentatio mortis est, Tusc. I. 30. 74, μελετήματα, previous studies, § 154.

facile vincit, hanc ipsam profecto adsidua ac diligens scriptura superabit. Omnes enim, sive artis sunt loci sive ingenii cuiusdam ac prudentiae, qui modo insunt in ea 151
re, de qua scribimus, anquirentibus nobis omnique acie ingenii contemplantibus ostendunt se et occurrunt; omnesque sententiae verbaque omnia, quae sunt cuiusque generis maxime illustria, sub acumen stili subeant et succedant necesse est; tum ipsa collocatio conformatioque verborum perficitur in scribendo, non poëtico, sed quodam oratorio numero et modo. Haec sunt, quae clamores et admirationes in bonis oratoribus efficiunt; neque ea quis- 152
quam, nisi diu multumque scriptitarit, etiamsi vehementissime se in his subitis dictionibus exercuerit, consequetur; et qui a scribendi consuetudine ad dicendum venit, hanc adfert facultatem, ut, etiam subito si dicat, tamen illa, quae dicantur, similia scriptorum esse videantur; atque etiam, si quando in dicendo scriptum attulerit aliquid, cum ab eo discesserit, reliqua similis oratio consequetur; ut concitato navigio, cum remiges inhibue-

2 *artis loci*] are the points of view or categories, which the *topic* furnishes § 141: *ingenii ac prudentiae* on the other hand, those which are discovered by a certain natural intelligence and practical glance. Thus then 'writing' is, in the first place, beneficial for inventio; secondly, for elocutio in the widest extent.

4 *anquirentibus*] de Off. I. 3. 9, anquirunt et consultant; 30. 105, hominis autem mens discendo alitur et cogitando; semper aliquid aut anquirit aut agit, videndique et audiendi delectatione ducitur. [For this form of the prefix ambi, cf. anhelo, anceps, ancisus (Lucr. III. 662)].

5 *ostendunt se*] come into the foreground.

occurrunt] II. 30. 130, press forward of their own accord.

7 *sub acumen stili*] come under the point of the stile, and follow its marks.

10 *oratorio numero et modo*] III. 43. 171 sqq. *numerus*, the orator's rhythm, raising and sinking of the artistically arranged words and sequences: *modus* similarly the time and pitch of tone (melody).

clamores] cries of applause, bravos. Lael. 7. 24, qui clamores tota cavea nuper in M. Pacuvii nova fabula! Brut. 44. 164; 95. 326, Hortensius utroque genere florens clamores faciebat adulescens. [Ad Att. I. 14. 4, quid multa? clamores.]

12 *scriptitarit*] II. 23. 97.

16 *similia scriptorum*] Or. 59. 200. Those are bona disciplina exercitati, qui et multa scripserint et, quaecunque etiam sine scripto dicent, similia *scriptorum* effecerint.

18 *similis consequetur*] follow in the same course. consequi in the meaning of the simple verb, as § 160.

19 *inhibuerunt*] form and expression here rest upon the conception

runt, retinet tamen ipsa navis motum et cursum suum 153
intermisso impetu pulsuque remorum, sic in oratione perpetua, cum scripta deficiunt, parem tamen obtinet oratio reliqua cursum scriptorum similitudine et vi concitata. 34
In cotidianis autem commentationibus equidem mihi 154
adulescentulus proponere solebam illam exercitationem maxime, qua C. Carbonem nostrum illum inimicum solitum esse uti sciebam, ut aut versibus propositis quam maxime gravibus aut oratione aliqua lecta ad eum finem, quem memoria possem comprehendere, eam rem ipsam, quam legissem, verbis aliis quam maxime possem lectis, pronuntiarem; sed post animadverti hoc esse in hoc vitii, quod ea verba, quae maxime cuiusque rei propria quaeque essent ornatissima atque optima, occupasset aut Ennius, si ad eius versus me exercerem, aut Gracchus, si eius orationem mihi forte proposuissem: ita, si eisdem verbis uterer, nihil prodesse; si aliis, etiam obesse, cum minus idoneis uti consuescerem: postea mihi placuit, eoque sum 155
usus adulescens, ut summorum oratorum Graecas ora-

which Cicero at this time connected with this nautical phrase *sustineri remos*, cum inhibere essent remiges iussi. Afterwards he learnt the special meaning of this expression more exactly, 'non enim sustinent, sed alio modo remigant,' i. e. backwards (ad Att. XIII. 21. 4). [Compare the use of the phrase 'hold up' in rowing].

2 *in oratione perpetua*] in the course of the speech.

3 *cum scripta deficiunt*] when the prepared matter breaks off.

oratio reliqua] the still remaining part of the speech, which will be spoken extempore (without preparation), goes on, without any one remarking a difference, just like the preceding part, which had been spoken according to written guidance.

4 *scriptorum similitudine et vi concitata*] hurried on by the motive force of that which was written (—which acts just as though it were still in existence, similitudine). Or. 59. 200, Id autem bona disciplina exercitatis, qui et multa scripserint et, quaecunque etiam sine scripto dicent, similia scriptorum effecerint non erit difficillimum.

7 *C. Carbonem*] § 40.

11 *lectis*] III. 37. 150; from the same conviction, which Caesar had when he uttered the phrase: verborum delectum originem esse eloquentiae, Brut. 72. 253; Or. 51. 170, sin probae res, lecta verba. Brut. 71. 250, itaque et lectis utitur verbis et frequentibus sententiis.

12 *hoc*] what is stated after the parenthesis.

15 *Gracchus*] i.e. the younger Gracchus, who far surpassed his elder brother in eloquence. His speeches (of which we now only possess fragments) were even in later times read in the rhetoricians' schools.

16 *ita*] 'consequently.'

tiones explicarem, quibus lectis hoc adsequebar, ut, cum ea, quae legerem Graece, Latine redderem, non solum optimis verbis uterer et tamen usitatis, sed etiam exprimerem quaedam verba imitando, quae nova nostris essent, dum modo essent idonea. Iam vocis et spiritus et totius cor- 156
poris et ipsius linguae motus et exercitationes non tam artis indigent quam laboris; quibus in rebus habenda est ratio diligenter, quos imitemur, quorum similes velimus esse. Intuendi nobis sunt non solum oratores, sed etiam actores, ne mala consuetudine ad aliquam deformitatem pravitatemque veniamus. Exercenda est etiam memoria 157
ediscendis ad verbum quam plurimis et nostris scriptis et alienis; atque in ea exercitatione non sane mihi displicet adhibere, si consueris, etiam istam locorum simulacrorumque rationem, quae in arte traditur. Educenda deinde dictio est ex hac domestica exercitatione et umbratili medium in agmen, in pulverem, in clamorem, in castra

1 *explicarem*] explained, i.e. by a translation from the Greek into Latin, as Cicero himself for the sake of the exercise in his early youth translated Xenophon's Œconomicus and Plato's Protagoras into Latin. Quint. x. 5. 1, vertere Graeca in Latinum veteres nostri oratores optimum iudicabant [cf. Stanhope's Life of Pitt, vol. i. pp. 8 and 18 and Lord Brougham's letter to Macaulay's father]. When he wished in his youth to receive instruction from a Latin rhetorician, those versed in such matters dissuaded him; continebar autem doctissimorum hominum auctoritate, qui existimabant, Graecis exercitationibus ali melius ingenia posse (Suet. de cl. rhet. c. 2).

8 *quos imitemur*] cf. II. 22. 90 sqq.

10 *ad aliquam deformitatem*] etc. to fall into some ugly and preposterous manner.

14 *adhibere*, § 188.

locorum] the doctrine of the points of connection for recollection and of the figures for remembrance or mnemonics, II. 83. 351 sqq.

15 *in arte*] § 99, systematically, in the form of a system (mnemonics).

Educenda] Cr. here in conclusion (again in opposition to the Greek school-rhetoricians) takes the previous preparation of an orator in a far more comprehensive sense, according to which a public appearance and practice itself is the best school. *dictio* personified as Brut. 96. 330: eloquentia is represented as a maiden.

16 *domestica*] 'intra parietes,' Brut. 8. 32 (forensi luce caruit Isocrates).

umbratili] Brut. 9. 37, Phalareus—processerat in solem et pulverem, non ut e militari tabernaculo, sed ut e Theophrasti doctissimi hominis *umbraculis;* Or. 19. 64, mollis est oratio philosophorum et *umbratilis*. Thus the shady places (darkness) of the house and the school are opposed to the sunshine and the light of practical life.

atque in aciem forensem; subeundus usus omnium et periclitandae vires ingenii, et illa commentatio inclusa in veritatis lucem proferenda est; legendi etiam poëtae, cog- 158
noscendae historiae, omnium bonarum artium doctores atque scriptores legendi et pervolutandi et exercitationis causa laudandi, interpretandi, corrigendi, vituperandi, refellendi; disputandumque de omni re in contrarias partes 159
et, quicquid erit in quaque re, quod probabile videri possit, eliciendum; perdiscendum ius civile, cognoscendae leges, percipienda omnis antiquitas, senatoria consuetudo, disciplina rei publicae, iura sociorum, foedera, pactiones, causa imperii cognoscenda est; libandus est etiam ex omni genere urbanitatis facetiarum quidam lepos, quo tamquam sale perspergatur omnis oratio. Effudi vobis

1 *subeundus usus omn.*] 'experiences must be made in everything;' as Top. 19 usus is introduced among the things 'quae fidem faciunt, plerumque enim creditur eis, qui experti sunt.' *subire* (like periculum subire), because such experiences must be often bought dear. Madvig [followed by Kayser]; visus hominum with a reference to II. 10. 41, [est hic, de quo loquimur—in oculis civium constituendus] (Orelli gustus) [Bake would strike out the passage]. Even thus usus hominum is preferable as 'intercourse with the outer world' in order to learn the mores hominum and to be able to play one's part in life.

2 *inclusa*] like a παρθενος κατάκλειστος, who shut up in the women's chambers [the γυναικεῖον] only rarely leaves the house, *in veritatis lucem*. § 149.

9 *eliciendum*] III. 21. 79. From this, the only true reading, the common reading eligendum atque dicendum is evidently corrupted: elicere is the technical term for the peripatetic method (according to Cicero's view not sufficient to be recommended to the orator) to discover if not the true, at least the most probable. Acad. II. 3. 7, neque nostrae disputationes quidquam aliud agunt, nisi ut in utramque partem dicendo *eliciant* et tamquam exprimant aliquid, quod verum est, aut ad id quam proxime accedat. de Inv. I. 34. 57, ratiocinatio est oratio ex ipsa se probabile aliquid *eliciens*. dicendum would have been after disputandum a very idle and intolerable addition.

ius civile] § 56. *cognoscendae leges*, § 48. *antiquitas*, §§ 18. 193.

10 *senatoria consuetudo*] the senatorial precedents.

11 *disciplina rei publicae*] the national constitution.

12 *causa imperii*] the whole external politics.

libandus] out of every kind of refined education we ought to pluck the bloom of spirited humour and witty thoughts, § 17. *libare* includes always the choice of the best. de Inv. II. 2. 4, ex variis ingeniis excellentissima quaeque libavimus.

14 *perspergatur*] in accordance with the proper meaning of sales, 'seasoned thoroughly.'

Effudi] without approaching more

omnia quae sentiebam, quae fortasse, quemcumque patremfamilias adripuissetis ex aliquo circulo, eadem vobis percontantibus respondisset.'

Haec cum Crassus dixisset, silentium est consecutum; 35 160
sed quamquam satis eis, qui aderant, ad id, quod erat propositum, dictum videbatur, tamen sentiebant celerius esse multo, quam ipsi vellent, ab eo peroratum. Tum Scaevola 'quid est, Cotta?' inquit 'quid tacetis? nihilne vobis in mentem venit, quod praeterea ab Crasso requiratis?' 'Id 161
mehercule' inquit 'ipsum attendo: tantus enim cursus verborum fuit et sic evolavit oratio, ut eius vim et incitationem aspexerim, vestigia ingressumque vix viderim, et tamquam in aliquam locupletem ac refertam domum venerim, non explicata veste neque proposito argento neque tabulis et signis propalam collocatis, sed his omnibus multis magnificisque rebus constructis ac reconditis; sic modo in oratione Crassi divitias atque ornamenta eius ingenii per quaedam involucra atque integumenta perspexi, sed ea contemplari cum cuperem, vix aspiciendi potestas fuit; itaque nec hoc possum dicere, me omnino ignorare, quid possideat, neque plane nosse atque vidisse.' 'Quin tu igitur facis idem,' inquit Scaevola 'quod faceres, 162

nearly any single subject. III. 55. 208.

1 *quemcunque patremfamilias*] the first good layman. § 132. Cf. III. 23. 87.

2 *ex aliquo circulo*] from any private circle you please, or a group of people standing together. § 174. Corn. Nep. Epam. 3.

4 *Haec cum dixisset*] Hom. Od. XIII. 1. ὡς ἔφαθ'· οἱ δ' ἄρα πάντες ἀκὴν ἐγένοντο σιωπῇ.

silentium] as in III. 35. 143, after an exposition full of matter; overpowered by the greatness and the number of the thoughts. At the same time a resting-place is furnished before the more important matters that have similarly to be discussed, which are hereby severed also externally from the previous customary prescriptions. The impulse for the continuation of the conversation is given by Scaevola, who at the same time undertakes to conduct the subsequent juristical discussions.

consecutum] § 152.

11 *evolavit*] escaped so quickly from our sight.

14 *veste*] collective: tapestry [cf. Hor. Sat. II. 4. 84; 6. 103].

16 *constructis*] or coacervatis, i.e. uno in loco, just as in the following §.

19 *vix aspiciendi potestas fuit*] so quickly did all pass before the eye, that scarcely a fleeting look was thrown upon it (strictim, § 162).

si in aliquam domum plenam ornamentorum villamve venisses: si ea sepositа, ut dicis, essent, tu, qui valde spectandi cupidus esses, non dubitares rogare dominum, ut proferri iuberet, praesertim si esses familiaris: similiter nunc petes a Crasso, ut illam copiam ornamentorum suorum, quam constructam uno in loco quasi per transennam praetereuntes strictim aspeximus, in lucem proferat et suo quidque in loco conlocet.' 'Ego vero' inquit Cotta 'a te 163
peto, Scaevola:—me enim et hunc Sulpicium impedit pudor ab homine omnium gravissimo, qui genus huius modi disputationis semper contempserit, haec, quae isti forsitan puerorum elementa videantur, exquirere:—sed tu hanc nobis veniam, Scaevola, da: perfice, ut Crassus haec, quae coartavit et peranguste refersit in oratione sua, dilatet nobis atque explicet.' 'Ego mehercule' inquit Mu- 164
cius 'antea vestra magis hoc causa volebam, quam mea, neque enim tanto opere hanc a Crasso disputationem desiderabam, quanto opere eius in causis oratione delector; nunc vero, Crasse, mea quoque etiam causa rogo, ut, quoniam tantum habemus otii, quantum iam diu nobis non contigit, ne graveris exaedificare id opus, quod instituisti: formam enim totius negotii opinione meliorem maioremque video, quam vehementer probo.' 'Enimvero' inquit 36
Crassus 'mirari satis non queo etiam te haec, Scaevola, 165

6 *transennam*] a lattice window (fenestram clathratam), behind which the merchants exposed their wares to view, in order on the one hand to display them to the curious public, on the other to prevent them from examining them too closely. [There is much discussion as to the true meaning of this word: Freund translates 'passing as it were along a rope' (i.e. a barrier at a distance); cf. Prof. Key's article on Dr Smith's Dictionaries in the Westminster Review.]

10 *qui—contempserit*] § 131. *sed*, § 147.

13 *veniam—da*] 'do us the pleasure.'

19 *mea quoque etiam*] Verr. III. 88. 206, ut omittam—eiusmodi cetera, quae forsitan alii *quoque etiam* fecerint; if we are not with reference to the preceding antea to read merely iam [with Kayser].

22 *formam totius negotii*] as it were the foundation or the ground-plan of the whole building.

opinione—maioremque] Brut. I. 1, opinione omnium maiorem animo cepi dolorem.

desiderare, quae neque ego teneo, uti ei, qui docent, neque sunt eius generis, ut, si optime tenerem, digna essent ista sapientia ac tuis auribus.' 'Ain' tu?' inquit ille: 'si de istis communibus et pervagatis vix huic aetati audiendum putas, etiamne illa neglegere possumus, quae tu oratori cognoscenda esse dixisti, de naturis hominum, de moribus, de rationibus eis, quibus hominum mentes et incitarentur et reprimerentur, de historia, de antiquitate, de administratione rei publicae, denique de nostro ipso iure civili? hanc enim ego omnem scientiam et copiam rerum in tua prudentia sciebam inesse; in oratoris vero instrumento tam lautam supellectilem numquam videram.' 'Potes 166 igitur,' inquit Crassus 'ut alia omittam innumerabilia et immensa et ad ipsum tuum ius civile veniam, oratores putare eos, quos multas horas exspectavit, cum in campum properaret, et ridens et stomachans Scaevola, cum Hypsaeus maxima voce, plurimis verbis a M. Crasso praetore contenderet, ut ei, quem defendebat, causa cadere liceret,

3 *Ain'*] Or. 45. 254, pro 'aisne,' in refutation like itane? itane vero? ain' vero? ain' tandem? 'do you really think?' 'indeed' [The German *So!*] Brut. 41. 142.

7 *mentes*] § 17. *nostro*, § 39.

13 *igitur*] because you think that this knowledge acquired by the orator is something merely personal, and does not belong to his department.

14 *ius civile*] Or. part. 28. 100, quarum causarum genus est positum in iure civili—cuius scientia neglecta ab oratoribus plerisque nobis ad dicendum necessaria videtur. Or. 34. 119 sq. ius civile teneat (orator) quo egent causae forenses cotidie. Quid est enim turpius, quam legitimarum et civilium controversiarum patrocinia suscipere, cum sis legum et iuris civilis ignarus?

15 *quos exspectavit*] viz., till they were ready; for he was one of the assessors of the courts and hence could not get away before the business was all over, which was so much the more irritating, inasmuch as the speech, so ridiculous to the accomplished jurist, threatened to keep him out of his accustomed game of ball in the campus Martius (§§ 73 and 217).

18 *quem defendebat*] inasmuch as he maintained as legal the demand of the minor. [The law of the XII. tables expressly ordained that a guardian who had committed a breach of trust against his ward should be fined double the amount (lex actionem adversus tutorem in duplum decernebat). From ignorance of this legally determined amount of restitution, the counsel for a minor, who had entered a complaint against his guardian, sued for more than double the amount, and consequently, according to the general provision, 'ut causa cadat is, qui non quemadmodum oportet egerit' (de Inv. II. 19. 57, pro Rosc. Com. 4. 10), he must have lost his suit. But the counsel for the guardian, instead of at once insisting on the flaw in the action, only contended

Cn. autem Octavius, homo consularis, non minus longa oratione recusaret, ne adversarius causa caderet ac ne is, pro quo ipse diceret, turpi tutelae iudicio atque omni molestia stultitia adversarii liberaretur?' 'Ego vero istos,' 167 inquit—'memini enim mihi narrare Mucium—non modo oratoris nomine, sed ne foro quidem dignos putarim.' 'Atqui non defuit illis patronis' inquit Crassus 'eloquentia neque dicendi ratio aut copia, sed iuris civilis scientia: quod alter plus lege agendo petebat, quam quantum lex in XII. tabulis permiserat, quod cum impetrasset, causa caderet; alter iniquum putabat plus secum agi, quam quod esset in actione; neque intellegebat, si ita esset actum, litem adversarium perditurum. Quid? in his pau- 37 cis diebus nonne nobis in tribunali Q. Pompeii praetoris 168 urbani familiaris nostri sedentibus homo ex numero disertorum postulabat, ut illi, unde peteretur, vetus atque usitata exceptio daretur CUIUS PECUNIAE DIES FUISSET?

that the demand was unreasonable] P.

[*causa cadere*, 'to be cast in his suit'].

1 *homo consularis*] so much the more disgraceful was his ignorance.

3 *turpi*] the bad discharge of a guardianship (breach of trust as a *tutor*) was doubly disgraceful.

7 *Atqui*] § 129.

9 *lege agendo*] 'in the formal management of the suit,' according to the legal formulae of the XII. tables.

13 *in his paucis diebus*] good MSS. insert the in [Ell. omits it, K. retains it] 'in the course of,' Top. 10. 44, si filius natus esset in decem mensibus.

15 *sedentibus*] Crassus belonged therefore to the consilium with which the praetors were accustomed to surround themselves when on the bench.

disertorum] he was one of the advocates, who understood quite well how to plead.

16 *peteretur*] petere and petitor are the technical terms for the demand *for payment* and the creditor [unde petitur 'the defendant']. Brut. 5. 18, non *solvam* nisi prius a te cavero, amplius eo nomine neminem, cuius *petitio* sit, *petiturum*.

17 [*exceptio*, in general the legally valid objection, which the defendant uses in his defence, in which he maintains that even if the complaint of the plaintiff were well-founded, he could still claim a verdict on special grounds. One of these exceptiones was the exceptio facti ne intra certum tempus petatur, the objection that the creditor had bound himself not to reclaim his loan before a fixed time. A creditor had done so, and if the defendant's advocate had brought this exceptio before the court, the creditor would have been cast because of the untimeliness of his demand; and if after that he brought the action on again he would have again lost his case, because a decision had already been given in the matter. Instead of doing this, the advocate of the defendant committed the blunder of employing an exceptio made in

quod petitoris causa comparatum esse non intellegebat: ut, si ille infitiator probasset iudici ante petitam esse pecuniam, quam esset coepta deberi, petitor rursus cum peteret, ne exceptione excluderetur, QUOD EA RES IN IUDICIUM ANTE VENISSET. Quid ergo hoc fieri turpius aut 169
dici potest, quam eum, qui hanc personam susceperit, ut amicorum controversias causasque tueatur, laborantibus succurrat, aegris medeatur, adflictos excitet, hunc in minimis tenuissimisque rebus ita labi, ut aliis miserandus, aliis inridendus esse videatur? equidem propinquum nos- 170
trum, P. Crassum illum Divitem et multis aliis rebus elegantem hominem et ornatum et praecipue in hoc efferendum et laudandum puto, quod, cum P. Scaevolae frater esset, solitus est ei persaepe dicere neque illum in iure civili satis [illi arti] facere posse, nisi dicendi copiam adsumpsisset, quod quidem hic, qui mecum consul fuit, filius eius est consecutus, neque se ante causas amicorum tractare atque agere coepisse, quam ius civile didicisset.

the interests of the plaintiff for his client, and taking it in the wrong sense, that he only needed to pay the money actually due.] P.

2 *ut—ne*] ironical, just as above, § 166, ut ei quem defendebat causa cadere liceret, in order that the creditor might not in a new suit be cast in accordance with the exceptio rei iudicatae.

infitiator] is the debtor, who is always ready with excuses in order to avoid repayment or to get rid of an indebtedness. Isidor. Orig. v. 26, infitiatio est negatio debitae rei, cum a creditore deposcitur. Festus, p. 112, M. infitiari creditum fraudari.

6 *quam eum—labi*] where also quam quod can stand, as II. 74. 302.

8 *hunc*] gathers up again in one the preceding definitions, that he who has been thus characterised, with whom all this is the case. § 109.

13 *frater esset*] and indeed the elder. [Crassus was the son of P. Mucius Scaevola (cons. 175), but adopted by P. Licinius Crassus Dives; he was Pontifex max. and cons. in 131.] This brotherly advice is so much the more deserving of notice, the more the Mucii might have inclined in consequence of their legal knowledge to estimate eloquence somewhat too meanly.

14 *illum*] ἐκεῖνον, opposed to se, § 221 (hence P. Scaevola).

15 [*illi arti*] has crept into the text from the margin, where it was placed by a gloss-writer to supply the dative presumed to be needed. But satisfacere in iure civili, 'to perform one's task satisfactorily as regards civil law,' is precisely analogous to satisfacere in gestu, III. 22, 83, satisfacere in historia de Legg. I. 2. 5, histriones—qui non solum in dissimillimis personis satisfaciebant Or. 31. 109. [It may be noticed here that Kayser brackets many phrases as classical interpolations, which Piderit allows to pass unquestioned.]

Quid vero ille M. Cato? nonne et eloquentia tanta fuit, 171
quantam illa tempore atque illa aetas in hac civitate ferre
maximam potuit, et iuris civilis omnium peritissimus?
Verecundius hac de re iam dudum loquor, quod adest vir
in dicendo summus, quem ego unum oratorem maxime
admiror; sed tamen idem hoc semper ius civile contemp-
sit. Verum, quoniam sententiae atque opinionis meae 172
voluistis esse participes, nihil occultabo et, quoad potero,
vobis exponam, quid de quaque re sentiam: Antonii in- 38
credibilis quaedam et prope singularis et divina vis in-
genii videtur, etiamsi hac scientia iuris nudata sit, posse se
facile ceteris armis prudentiae causas tueri atque defendere;
quam ob rem hic nobis sit exceptus; ceteros vero non
dubitabo primum inertiae condemnare sententia mea, post
etiam impudentiae; nam volitare in foro, haerere in iure 173
ac praetorum tribunalibus, iudicia privata magnarum re-
rum obire, in quibus saepe non de facto, sed de aequitate
ac iure certetur, iactare se in causis centumviralibus, in
quibus usucapionum, tutelarum, gentilitatum, agnatio-
num, adluvionum, circumluvionum, nexorum, mancipio-
rum, parietum, luminum, stillicidiorum, testamentorum
ruptorum aut ratorum ceterarumque rerum innumerabi-
lium iura versentur, cum omnino, quid suum, quid alie-

4 *Verecundius*] with a certain timidity or reserve, III. 17. 62; 41. 165.

15 *volitare*] 'to be flying about in,' II. 72. 292. *in iure*, § 48, 'the proceedings before the magistrate.'

16 *iudicia privata*] where there is therefore need of the most special knowledge of positive law. Top. 17. 65, privata enim iudicia maximarum quidem rerum in iuris consultorum mihi videntur esse prudentia.

17 *de aequitate ac iure*] Where aequitas and ius are placed thus in juxtaposition, aequitas is the inner living essence of law, which has found its expression in ius, the *healthy* feeling of right and the spirit of the ius civile. Brut. 38. 143 sqq.

19 [*usucapionum* &c., "in which the laws of the acquisition of property by possession, of wardships, of gentile relations, of consanguinity, of the additions made to land by rivers, and their encroachments upon it, of legal titles, and property held in full ownership, of the *servitutes* of walls, lights and drippings, of the breach or confirmation of wills, &c. are concerned."]

23 *quid suum*] hence the most elementary conceptions of law. *denique*, finally, for the introduction of the most general distinctions between ius civium and ius gentium, &c.

num, qua re denique civis aut peregrinus, servus aut liber quispiam sit, ignoret, insignis est impudentiae; illa vero 174
deridenda adrogantia est, in minoribus navigiis rudem esse se confiteri, quinqueremes aut etiam maiores gubernare didicisse. Tu mihi cum in circulo decipiare adversarii stipulatiuncula et cum obsignes tabellas clientis tui, quibus in tabellis id sit scriptum, quo ille capiatur, ego tibi ullam causam maiorem committendam putem? citius hercule is, qui duorum scalmorum naviculam in portu everterit, in Euxino ponto Argonautarum navem gubernarit. Quid? si ne parvae quidem causae sunt, sed saepe max- 175
imae, in quibus certatur de iure civili, quod tandem os est illius patroni, qui ad eas causas sine ulla scientia iuris audet accedere? Quae potuit igitur esse causa maior, quam illius militis, de cuius morte cum domum falsus ab exercitu nuntius venisset et pater eius re credita testamentum mutasset et, quem ei visum esset, fecisset heredem essetque ipse mortuus, res delata est ad centumviros,

5 *Tu mihi*] the well-known *dat. ethic*: [Madvig, § 248]: in opposition to this we have afterwards ego tibi. *in circulo* where two or three people are together, and it is consequently not so hard to collect one's thoughts as before the public court, § 159.

adversarii] the counsel for the opposite side; for stipulations of this kind, i.e. legal business in the form of question and answer, whereby one person pledged himself to do something for another with or even without certain conditions, generally rested upon an agreement between the parties: if you allow yourself in an unimportant contract to be hoodwinked by your opponent.

6 *obsignes*] and still you sign the written contract of your client, to secure it the better, as though you wished to make quite fast the exceedingly disadvantageous provisions contained in it.

quibus in tabellis] for the sake of importance or emphasis the subst. is often thus repeated after the relative. § 241, omnem hanc partem—quae pars, &c. Brut. 60. 218, senatu misso, quem senatum.

9 *scalmorum*] σκαλμοί (tholes), τὰ ξύλα ὧν ἐκδέονται αἱ κώπαι πρὸς τὴν εἰρεσίαν. Brut. 53. 197. Vitruv. x. 8, remi circa scalmos strophis religati manibus impelluntur et reducuntur.

naviculam] the smallest skiff, rowed by one man with two sculls. Opposed to this as the type of a mighty sailing ship is the ποντοπόρος νηῦς Ἀργὼ πασιμέλουσα (Hom. Od. XII. 70), just as the safe harbour is opposed to the ἄξενος Euxine, the stormy sea, and everterit to gubernarit (κυβερνήσειεν ἄν).

12 *de iure civili*] where one has to deal with the most important and often the most debated questions of law.

os] pro Rab. post. 12. 34, quod habentos! quam audaciam. II. 7. 29.

cum miles domum revenisset egissetque lege in hereditatem paternam testamento exheres filius. Nempe in ea causa quaesitum est de iure civili, possetne paternorum bonorum exheres esse filius, quem pater testamento neque heredem neque exheredem scripsisset nominatim? Quid? 39
qua de re inter Marcellos et Claudios patricios centumviri 176
iudicarunt, cum Marcelli ab liberti filio stirpe, Claudii patricii eiusdem hominis hereditatem gente ad se dicerent redisse, nonne in ea causa fuit oratoribus de toto stirpis et gentilitatis iure dicendum? quid? Quod item in centum- 177
virali iudicio certatum esse accepimus, cum Romam in exsilium venisset, cui Romae exsulare ius esset, si se ad aliquem quasi patronum applicavisset intestatoque esset mortuus, nonne in ea causa ius applicationis obscurum sane et ignotum patefactum in iudicio atque inlustratum
est a patrono? Quid? nuper, cum ego C. Sergii Oratae 178
contra hunc nostrum Antonium iudicio privato causam defenderem, nonne omnis nostra in iure versata defensio est? cum enim M. Marius Gratidianus aedes Oratae vendidisset neque servire quandam earum aedium partem in

1 *egissetque lege*] for the formal introduction of the complaint and the arrangement of the suit (the legis actio) preceded the decision before the suitable court.

2 *testamento exheres filius*] is so far from being an interpolated insertion, that the words in this their intentionally emphatic position bring into prominence the opposition between the actual testamentary provision and the natural claims of the son to inheritance; 'he, the son, excluded from the inheritance according to the altered will.'

10 [*centumvirali iudicio*] a trial before the centumviri, a court of 105 men who decided principally cases of inheritance and small civil suits.]

11 *accepimus*] from an earlier time (in later days these relations must have been altered, especially in consequence of the more extensive communication of the franchise).

cum Romam] So we ought perhaps to read instead of qui Romam [after Ellendt] and to construe the words then; cum R. venisset (sc. is or aliquis), cui R. si se ad a. q. p. a., exulare ius esset intestatoque e. m.; formerly (with the reading qui) it used to be supposed that after mortuus there was a lacuna, in which originally the sentence referring to qui stood.

14 [*applicationis*—every peregrinus had to place himself under the protection of some patronus] P.

16 *cum ego*] de Off. III. 16. 67.

17 *iudicio privato*] before a magistrate (praetor) specially appointed thereto, in opposition to the standing law-courts.

20 *in mancipii lege*] in the deed by which the property of Gratidianus was transferred to Orata, what was

mancipii lege dixisset, defendebamus, quicquid fuisset incommodi in mancipio, id si venditor scisset neque declarasset, praestare debere; quo quidem in genere familiaris 179
noster M. Buculeius, homo neque meo iudicio stultus et suo valde sapiens et ab iuris studio non abhorrens, simili quodam modo nuper erravit: nam cum aedes L. Fufio venderet, in mancipio lumina, uti tum esset, ita recepit; Fufius autem, simul atque aedificari coeptum est in quadam parte urbis, quae modo ex illis aedibus conspici poset, egit statim cum Buculeio, quod, cuicumque particulae caeli officeretur, quamvis esset procul, mutari lumina putabat. Quid vero? clarissima M'. Curii causa Marcique 180
Coponii nuper apud centumviros quo concursu hominum, qua exspectatione defensa est? cum Q. Scaevola, aequalis et collega meus, homo omnium et disciplina iuris civilis eruditissimus et ingenio prudentiaque acutissimus et ora-

called mancipium (contract of purchase, bill of sale).

2 *neque declarasset*] had been silent about, de Off. III. 16. 65, ac de iure quidem praediorum sanctum apud nos est iure civili ut in his vendendis vilia dicerentur quae nota essent venditori. Nam cum ex duodecim tabulis satis esset, ea praestari quae essent lingua nuncupata, quae qui infitiatus esset, dupli poenam subiret, a iurisconsultis etiam reticentiae poena est constituta. Quidquid enim esset in praedio vitii, id statuerunt, si venditor sciret, nisi nominatim dictum esset, praestare oportere ('this the seller had to make good,' with damnum 'to make reparation for damage,' as afterwards: iudex ita pronuntiavit, cum in vendendo eam rem scisset et non pronuntiasset, emptori damnum praestari oportere).

4 [*neque—et*. Madv. § 455 c.] *simili quodam modo*] 'in a tolerably similar way,' i.e. in so far as in this case too the question involved a servitus, and the specification in the bill of sale although not quite formal, yet appeared sufficiently precise (the words in re that in editions generally stand after simili have no place in the text), II. 29. 127, novo quodam modo.

7 *lumina uti tum essent*] according to the Dig. VIII. tit. 2, this precaution sufficed: Si servitus imposita fuerit: *lumina quae nunc sunt ut ita sint* de futuris luminibus nihil caveri videtur. Quodsi ita sit cautum *ne luminibus officiatur*, ambigua est scriptura utrumne luminibus officiatur quae nunc sunt, an etiam his quae postea quoque fuerint. But Fufius wished to understand that stipulation in the wider sense as directed against every obstruction of the view, even in the remotest point. *officeretur*, officere and obstruere are the technical expressions used of the man who obstructs his neighbours' light by building: ut cum in arce augurium augures acturi essent, iussissentque Ti. Claudium qui aedes in Coelio monte habebat demoliri ea *quorum altitudo officeret auspiciis*, de Off. III. 16. 66. Brut. 17. 66.

14 *exspectatione*] eager attention.

tione maxime limatus atque subtilis atque, ut ego soleo dicere, iuris peritorum eloquentissimus, eloquentium iuris peritissimus, ex scripto testamentorum iura defenderet negaretque, nisi postumus et natus et, antequam in suam tutelam veniret, mortuus esset, heredem eum esse posse, qui esset secundum postumum et natum et mortuum heres institutus; ego autem defenderem hac eum tum mente fuisse, qui testamentum fecisset, ut, si filius non esset, qui in suam tutelam veniret, M'. Curius esset heres, num destitit uterque nostrum in ea causa in auctoritatibus, in exemplis, in testamentorum formulis, hoc est, in medio iure civili versari? Omitto iam plura exempla causarum amplissimarum, quae sunt innumerabilia: capitis nostri saepe potest accidere ut causae versentur in iure: etenim si C. Mancinum, nobilissimum atque optimum virum atque consularem, cum eum propter invidiam Numantini foederis pater patratus ex S. C. Numantinis dedidisset eumque illi non recepissent posteaque 40 181

2 *iuris peritorum, &c.*] Brut. 39. 144 sq. in interpretando, in definiendo, in explicanda aequitate, nihil erat Crasso copiosius; idque cum saepe alias tum apud centumviros in M'.Curii causa cognitum est. Ita enim multa tum contra scriptum pro aequo et bono dixit, ut hominem acutissimum Q. Scaevolam et in iure, in quo illa causa versabatur, paratissimum obrueret argumentorum exemplorumque copia; atque ita tum ab his patronis aequalibus et iam consularibus causa illa dicta est cum uterque ex contraria parte ius civile defenderet, ut *eloquentium iuris peritissimus* Crassus, iuris peritorum eloquentissimus Scaevola putaretur. 40. 148.

9 *in suam tutelam*] 'ut se ipse tueri posset sine tutore.'

10 *in auctoritatibus*] legal opinions sc. prudentium, those versed in law.

11 *exemplis*] analogous cases.

formulis] the prescribed formulae in wills, especially the testamentum per aes et libram, as they had to be used before legal witnesses, e. g. the testator took the tabulae and declared the contents before witnesses as his will with the words: haec ita ut in his tabulis cerisque scripta sunt, ita do, ita lego, ita testor, ita que vos Quirites testimonium mihi perhibitote.] P.

13 *capitis nostri*] insomuch as in the action for the possession or loss of legal existence as regards freedom, civic and family rights were at stake.

15 *etenim si, &c.*] in consequence of the endeavour to embrace everything and the resulting necessity to use the same proper name for the sake of distinctness, once as an object and then again as a subject, the sentence is not continued as regularly as usual; the conclusion begins § 182.

Mancinus domum revenisset neque in senatum introire dubitasset, P. Rutilius, M. filius, tribunus plebis, iussit educi, quod eum civem negaret esse, quia memoria sic esset proditum, quem pater suus aut populus vendidisset aut pater patratus dedidisset, ei nullum esse postliminium, quam possumus reperire ex omnibus rebus civi- 182
libus causam contentionemque maiorem quam de ordinanda civitate, de libertate, de capite hominis consularis praesertim cum haec non in crimine aliquo, quod ille posset infitiari, sed in civili iure consisteret? similique in genere, inferiore ordine si quis apud nos servisset ex populo foederato seseque liberasset et postea domum revenisset, quaesitum est apud maiores nostros, num is ad suos postliminio redisset et amisisset hanc civitatem. Quid? 183
de libertate, quo iudicium gravius esse nullum potest, nonne ex iure civili potest esse contentio, cum quaeritur, is, qui domini voluntate census sit, continuone, an, ubi lustrum sit conditum, liber sit? quid? quod usu memoria

1 *neque in senatum, &c.*] because he considered that by his return he had been legally restored to his former position.

4 *vendidisset*] this was done by the state, e. g. in the case of the citizen who in order to avoid the public burdens did not have his property valued (incensus), or who shirked military service.

5 [*postliminium*, "ex Cic. Top. 8. 36. Gaio, I. 129, Gellio, VII. 18, Aelii Galli fragm. apud Festum in v. intelligitur *postliminium* esse captivorum aut rerum captarum, qui quaeve ad nos revertantur, restitutionem in conditionem pristinam." Ell.]

9 *in crimine*] in which it would have only depended upon the proof of the factum; *in civili iure*, in which legal principles and questions of law more difficult to decide are concerned.

11 *inferiore ordine*] in a lower rank or lower position, i. e. of those who are concerned.

14 *hanc*] our own.

18 *conditum*] Liv. I. 44, censu perfecto (Servius Tullius) edixit ut omnes Cives Romani equites peditesque in suis quisque centuriis in Campo Martio prima luce adessent. Ibi instructum exercitum omnem suovetaurilibus lustravit; idque *conditum lustrum* appellatum, quia is censendo finis factus est.

quod] the simplest construction of the sentence is "farther as regards the case which once happened, viz. *ut* paterfamilias qui venisset, cum duxisset neque remisisset *mortuus esset intestato:* are not important things there at stake?" For that is the decisive point that he had died without will and left behind him two heirs, one by each wife. The que introduced in the editions after mortuus has crept into the text through a copyist who did not understand the connection. [Ell. retains que].

patrum venit, ut paterfamilias, qui ex Hispania Romam venisset, cum uxorem praegnantem in provincia reliquisset Romaeque alteram duxisset neque nuntium priori remisisset, mortuus esset intestato et ex utraque filius natus esset, mediocrisne res in controversiam adducta est? cum quaereretur de duobus civium capitibus et de puero, qui ex posteriore natus erat, et de eius matre; quae, si iudicaretur certis quibusdam verbis, non novis nuptiis fieri cum superiore divortium, in concubinae locum duceretur. Haec 184
igitur et horum similia iura suae civitatis ignorantem erectum et celsum, alacri et prompto ore ac voltu, huc atque illuc intuentem vagari cum magna caterva toto foro, praesidium clientibus atque opem amicis et prope cunctis civibus lucem ingenii et consiliis sui porrigentem atque tendentem nonne in primis flagitiosum putandum est?

Et quoniam de impudentia dixi, castigemus etiam 41
segnitiem hominum atque inertiam; nam si esset ista 185
cognitio iuris magna atque difficilis, tamen utilitatis magnitudo deberet homines ad suscipiendum discendi laborem impellere: sed, o di immortales, non dicerem hoc, audiente Scaevola, nisi ipse dicere soleret nullius artis faciliorem sibi cognitionem videri: quod quidem certis de causis a 186
plerisque aliter existimatur; primum, quia veteres illi, qui huic scientiae praefuerunt, obtinendae atque augendae potentiae suae causa pervolgari artem suam noluerunt;

8 *certis quibusdam verbis*] Dig. XXIV. Tit. 2. l. 2. In repudiis id est renuntiatione (the letter of divorce) comprobata sunt haec verba: *tuas res tibi habeto;* item haec: *tuas res tibi agito.*

9 *duceretur*] 'tanquam uxor in eum locum, qui non esset uxoris, sed concubinae.

15 *flagitiosum*] Lael. 13, 48, itaque videas rebus iniustis iustos maxime dolere, imbellibus fortes, *flagitiosis modestos.*

22 *quod quidem*] &c. The study of law was rendered difficult partly because at first the necessary knowledge of the material that was not accessible to everyone was wanting, partly because afterwards (when the just mentioned condition ceased) there was still need of the systematic arrangement in order to be able to gain the necessary information.

24 *qui huic scientiae praefuerunt*] those who had the control of this legal knowledge, who were as it were its masters, §§ 198, 235.

deinde, posteaquam est editum, expositis a Cn. Flavio primum actionibus, nulli fuerunt, qui illa artificiose digesta generatim componerent; nihil est enim, quod ad artem redigi possit, nisi ille prius, qui illa tenet, quorum artem instituere volt, habeat illam scientiam, ut ex eis rebus, quarum ars nondum sit, artem efficere possit. Hoc 187
video, dum breviter voluerim dicere, dictum a me esse paulo obscurius; sed experiar et dicam, si potero, planius. Omnia fere, quae sunt conclusa nunc artibus, dispersa et 42
dissipata quondam fuerunt; ut in musicis numeri et voces et modi; in geometria lineamenta, formae, intervalla, magnitudines; in astrologia caeli conversio, ortus, obitus motusque siderum; in grammaticis poëtarum pertractatio, historiarum cognitio, verborum interpretatio, pronuntiandi quidam sonus; in hac denique ipsa ratione dicendi excogitare, ornare, disponere, meminisse, agere ignota quondam omnibus et diffusa late videbantur: adhibita est 188

1 *editum*] sc. ius, which perhaps originally stood in the text.

[*Cn. Flavio*, Liv. IX. 46, Eodem anno (B.C. 304) Cn. Flavius Cn. filius scriba patre libertino humili fortuna ortus, ceterum callidus vir et facundus, aedilis curulis fuit, civile ius repositum in penetralibus pontificum evulgavit, fastosque circa forum in albo proposuit, ut quando lege agi posset sciretur. Pro Mur. 11, 25] P.

2 *artificiose digesta generatim*] put together in systematic arrangement and division under leading sections (or chapters) §§ 146, 190.

3 *ad artem redigi*] reduced to a system.

5 *illam scientiam*] a scientific capacity for logic.

9 *conclusa*] systematically reduced to unity: *numeri*, &c. time, tone, melodies: *lineamenta*, outlines, figures, proportions of space and size.

13 *in grammaticis*] § 10.

16 *ignota—videbantur*] they knew the facts and still they also did not know them (*videbantur* ignota) because the consciousness of the special importance of these five parts and their connection with each other was wanting, § 14, totius rationis ignari. Dial. de Oratt. 19, erant enim haec (viz. principiorum praeparatio, narrationis series, argumentorum gradus, generally, quidquid Hermagorae libris praecipitur) nova et *incognita*, et ipsorum quoque oratorum paucissimi *praecepta rhetorum cognoverant*. There is therefore no need of any alteration of the text into infinita or incondita or *ignorata hominibus* aut diffusa late.

17 *diffusa*] appeared to stand out of all reciprocal connection: although they were really closely connected, as the five parts of the one officium oratoris.

adhibita est] like a technical support, as it were, for whose addition adhibere is precisely the word. On the indispensableness of dialectics

igitur ars quaedam extrinsecus ex alio genere quodam; quod sibi totum philosophi adsumunt, quae rem dissolutam divolsamque conglutinaret et ratione quadam constringeret. Sit ergo in iure civili finis hic: legitimae atque usitatae in rebus causisque civium aequabilitatis conservatio. Tum sunt notanda genera et ad certum nu- 189
merum paucitatemque revocanda. Genus autem est id, quod sui similes communione quadam, specie autem differentes, duas aut plures complectitur partes; partes autem sunt, quae generibus eis, ex quibus manant, subiiciuntur; omniaque, quae sunt vel generum vel partium nomina, definitionibus, quam vim habeant, est exprimendum; est enim definitio rerum earum, quae sunt eius rei propriae, quam definire volumus, brevis et circumscripta quaedam explicatio. Hisce ego rebus exemplas adiungerem, nisi 190

for jurisprudence cf. Brut. 41. 152, quod nunquam effecisset ipsius iuris scientia (that it should be elevated into a science) nisi eam praeterea didicisset artem, quae doceret rem universam tribuere in partes, latentem explicare definiendo, obscuram explanare interpretando; ambigua primum videre, deinde distinguere: postremo habere regulam, qua vera et falsa diiudicarentur, et quae quibus propositis essent quaeque non essent consequentia.

1 *ex alio genere*] viz. from dialectics.

2 *totum*] so that they allow absolutely no share in it to the rhetorician.

3 *ratione quadam*] according to a fixed rule and method.

4 *Sit ergo*] Here what has just been mentioned is applied to jurisprudence, which is the matter first of all dealt with: 'It follows that in respect to private law its aim or extent must be stated.' Top. 2. 9. Sed ad id totum, de quo disseritur, tum definitio adhibetur, quae quasi involutum evolvit id, de quo quaeritur: eius argumenti talis est formula: ius civile est *aequitas constituta eis, qui eiusdem civitatis sunt, ad res suas obtinendas:* private law has for its aim, the protection in the concerns and actions of the members of the state (opposed to gentium) the universally valid agreements according to law and custom (opposed to criminal and penal law, quod non ad omnes cives pertinet).

7 *paucitatemque*] II. 34. 145, 'to the smallest possible number': that the logical error may not be committed, in consequence of an inadequate subsumption, of one or more species being left, coordinate with the genus, de Inv. I. 22, 32, paucitas in partitione servatur, si genere ipsa rerum ponuntur, *neque permixte cum partibus implicantur.*

13 *propriae*] Top. 6. 29, sic igitur veteres praecipiunt: cum sumpseris ea, quae sint ei rei, quam definire velis, cum aliis communia usque eo persequi, dum *proprium* efficiatur, quod nullam aliam in rem transferri possit; the essential peculiarities.

14 *circumscripta*] sharply defined.

15 *exempla*] such as those given in Top. 2. 9; 5. 28; 6. 29.

apud quos haec haberetur oratio, cernerem; nunc complectar, quod proposui, brevi: si enim aut mihi facere licuerit, quod iam diu cogito, aut alius quispiam aut me impedito occuparit aut mortuo effecerit, ut primum omne ius civile in genera digerat, quae perpauca sunt, deinde eorum generum quasi quaedam membra dispertiat, tum propriam cuiusque vim definitione declaret, perfectam artem iuris civilis habebitis, magis magnam atque uberem, quam difficilem et obscuram. Atque interea tamen, dum 191
haec, quae dispersa sunt, coguntur, vel passim licet carpentem et colligentem undique repleri iusta iuris civilis scientia. Nonne videtis equitem Romanum, hominem 43
acutissimo omnium ingenio, sed minime ceteris artibus eruditum, C. Aculeonem, qui mecum vivit semperque vixit, ita tenere ius civile, ut ei, cum ab hoc discesseritis, nemo de eis, qui peritissimi sunt, anteponatur? Omnia 192
sunt enim posita ante oculos, collocata in usu cotidiano, in congressione hominum atque in foro; neque ita multis litteris aut voluminibus magnis continentur; eadem enim elata sunt primum a pluribus, deinde paucis verbis commutatis etiam ab eisdem scriptoribus scripta sunt saepius. Accedit vero, quo facilius percipi cognoscique ius civile 193
possit, quod minime plerique arbitrantur, mira quaedam

3 *cogito*] Cic. had the same intention [§ 121] and actually carried it out in his work (not extant): de iure civili in artem redigendo, Gell. N. A. I. 22. [occuparit, 'anticipate me'].

5 *in genera digerat*] arranges under the main sections and chapters, and in reverse analytical method divides them into single subordinate sections.

11 *iusta*] 'regular,' which satisfy just requirements.

15 *ab hoc*] sc. Scaevola.

18 *multis litteris*] pro Mur. 13, 28. Difficilis autem res ideo non putatur, quod et paucis et minime obscuris litteris continetur. Itaque si mihi, homini vehementer occupato, stomachum moveritis, triduo me esse iure consultum profitebor.

20 *elata*] § 111.

a pluribus] *e.g.* Aelius Paetus, Sextus Aelius Catus, and Cato; afterwards the Mucii, M. Manilius, M. Iunius Brutus, &c.

22] The study of positive law is of great interest as well for the philologist and the antiquarian as for the statesman and indeed for the philosopher.

in cognoscendo suavitas et delectatio; nam, sive quem haec Aeliana studia delectant, plurima est et in omni iure civili et in pontificum libris et in XII. tabulis antiquitatis effigies, quod et verborum prisca vetustas cognoscitur et actionum genera quaedam maiorum consuetudinem vitamque declarant; sive quem civilis scientia, quam Scaevola non putat oratoris esse propriam, sed cuiusdam ex alio genere prudentiae, totam hanc, descriptis omnibus civitatis utilitatibus ac partibus XII. tabulis contineri videbit:

2 [*Aeliana studia*, studies in history and philology, so called from Aelius Stilo or Praeconinus (I. 62. 265; III. 51. 197), who accompanied Q. Metellus Numidicus into exile in 100, and later was the teacher of Cic. and Varro. Brut. 56. 205, Fuit is animo vir egregius et eques Romanus cum primis honestus, idemque *eruditissimus* et *Graecis litteris* et *Latinis, antiquitatisque nostrae*, et in inventis rebus et in actis scriptorum veterum *litterate* peritus. Varro, L. L. VII. 2, p. 117, Ælii hominis in primis in litteris Latinis exercitati *interpretationem carminum Saliorum* videbis et exili littera expeditam et praeterita multa obscura] P. [*Ae'iana* is Madvig's palmaria emendatio for aliena.]

plurima antiquitatis effigies] The customs and language of antiquity are reflected in many ways in the older legislation, as in the old penal code and the customary formulae of actions and laws, and thus these are a rich field for antiquarian studies: as was actually recognized by the grammarians (e. g. Varro), so that they made the older legal and judicial formulae the basis of their philological investigations.

3 [*pontificum libris*, or commentarii pontificum (Liv. IV. 3. 9) in which all that pertained to the science of the pontifices was taught, and first of all the prescriptions of the ius sacrum or pontificum (de Or. III. 33. 136). But as originally all public business, judicial acts and private legal suits, were most closely connected with religion, and hence came under the rules of the 'sacred law,' the lib. pont. contained also prescriptions about private and traditional law in general), about the customary forms of action (the various actionum genera, and so on, so that it can easily be seen how they furnished inexhaustible material for Roman antiquarians.] P.

4 *vetustas*] III. 38. 52, e. g. sos for eos, end for in.

5 *actionum genera quaedam*] certain forms of proceeding against definite offences, for which the legal directions were given in the XII. Tables.

maiorum consuetudinem] It was e. g. very characteristic of the old Romans that a law in the XII. Tab. punished personal abuse with death.

6 *sive quem*] sc. delectat, which may be easily supplied, especially as it follows almost immediately, *sive quem* is found in good MSS. for in this place the older MSS. have no verb: sive quis civilem scientiam contempletur (Erl. II.), or complectitur (Ell.), or laudat, or sive quis civili scientia ducitur [K. reads sive quis civilem scientiam*]. *Scaevola*, § 35.

8 *descriptis*] for political science the XII. Tab. are so far a source of knowledge, that in them there is an exact account of the utilitates ac partes civitatis.

9 *utilitatibus*] § 36, τὰ τῆς πόλεως

sive quem ista praepotens et gloriosa philosophia delectat, —dicam audacius—hosce habet fontes omnium disputationum suarum, qui iure civili et legibus continentur. Ex 194
his enim et dignitatem maxime expetendam videmus, quoniam virtus atque honestus labor honoribus, praemiis, splendore decoratur, vitia autem hominum atque fraudes damnis, ignominiis, vinclis, verberibus, exsiliis, morte multantur; et docemur non infinitis concertationumque plenis disputationibus, sed auctoritate nutuque legum domitas habere libidines, coërcere omnes cupiditates, nostra tueri, ab alienis mentes, oculos, manus abstinere. Fremant om- 44
nes licet, dicam quod sentio: bibliothecas mehercule om- 195
nium philosophorum unus mihi videtur XII. tabularum libellus, si quis legum fontes et capita viderit, et auctoritatis, pondere et utilitatis ubertate superare. Ac si nos, 196
id quod maxime debet, nostra patria delectat, cuius rei

συμφέροντα, all the political conditions that determine the well-being of the state, § 11, *partibus*, the divisions of the political organization, especially the two orders and their political relations to each other, § 58.

videbit] on closer contemplation: but afterwards *habet* (which all the MSS. have, and which ought not to be altered into habebit) as above, now and ever, because of the philosophical (ethical) principles on which right and law rest.

5 *quoniam*] not cum (quom), which is very often confused with quoniam by the copyists, must be read, as we see from the corresponding passage, § 247, quod viros bonos iure civili fieri putas, *quia* legibus et praemia proposita sint virtutibus, &c.

virtus atque honestus labor] The true reading as is plain from the contrast, vitia atque fraudes. The common reading verus et iustus atque honestus labor (Erl. I. *b*) has only arisen from the corruption of virtus, which in one MS. was changed into verus, in another into iustus: and thus both words crept into the text.

8 *et docemur*] not only does the law hold before us objectively the mark to aim at (et dignitatem expetendam videmus), but the rigorous command teaches us also subjectively to control ourselves.

concertationum] full of controversial polemics, and disquisitions that have after all no result.

9 *nutuque*] § 38.

12 [*licet*, Madvig, § 361. obs. 1].

14 *fontes et capita*] § 42, Liv. III. 34, tabularum leges perlatae sunt, quae nunc quoque in hoc immenso aliarum super alias acervatarum legum cumulo *fons omnis publici privatique est iuris*, insomuch as they always went back to these and the laws recorded in writing were always accommodated to them.

14 *libellus*] The text of the XII. Tab. was copied out often; in Cicero's youth boys were compelled to learn them word for word, de Leg. II. 4. 9; 23. 59, discebamus enim pueri XII. tab. ut carmen necessarium.

tanta est vis ac tanta natura, ut Ithacam illam in asperrimis saxulis tamquam nidulum adfixam sapientissimus vir immortalitati anteponeret, quo amore tandem inflammati esse debemus in eius modi patriam, quae una in omnibus terris domus est virtutis, imperii, dignitatis? cuius primum nobis mens, mos, disciplina nota esse debet, vel quia est patria parens omnium nostrum vel quia tanta sapientia fuisse in iure constituendo putanda est, quanta fuit in his tantis opibus imperii comparandis. Percipietis 197
etiam illam ex cognitione iuris laetitiam et voluptatem, quod, quantum praestiterint nostri maiores prudentia ceteris gentibus, tum facillime intellegetis, si cum illorum Lycurgo et Dracone et Solone nostras leges conferre volueritis; incredibile est enim, quam sit omne ius civile praeter hoc nostrum inconditum ac paene ridiculum; de quo multa soleo in sermonibus cotidianis dicere, cum hominum nostrorum prudentiam ceteris omnibus et maxime Graecis antepono. His ego de causis dixeram, Scaevola, eis, qui perfecti oratores esse vellent, iuris civilis cognitionem esse necessariam.

Iam vero ipsa per sese quantum adferat eis, qui ei 45
praesunt, honoris, gratia, dignitatis, quis ignorat? itaque 198
ut apud Graecos infimi homines mercedula adducti mi-

1 *Ithacam*] Hom. Od. III. 200 sqq. πολύμητις Ὀδυσσεύς, | ὃς Τράφη ἐν δήμῳ Ἰθάκης κραναῆς περ ἐούσης, | εἰδὼς παντοίους τε δόλους καὶ μήδεα πυκνά. Od. XI. 480, παιπαλόεσσα, IX. 27, τρηχεῖ' ἀλλ' ἀγαθὴ κουροτρόφος. οὗτοι ἔγωγε | ἧς γαίης δύναμαι γλυκερώτερον ἄλλο ἰδέσθαι.

2 *sapientissimus*] Ov. Pont. I. 3. 35. Non dubia est Ithaci prudentia, sed tamen optat, | fumum de patriis posse videre focis.

3 *immortalitati*] which the ὀλοόφρονος Ἄτλαντος θυγάτηρ promised him: Hom. Od. I. 57, θέλγει ὅπως Ἰθάκης ἐπιλήσεται. αὐτὰρ Ὀδυσσεὺς | ἱέμενος καὶ καπνὸν ἀποθρώσκοντα νοῆσαι | ἧς γαίης θανέειν ἱμείρεται.

6 *mens*] inner being, spirit, soul.

11 *prudentia*] in knowledge of law.

18 *Graecis*] just as *Lycurgo*, § 23.

22 *praesunt*] § 186, *mercedula*, for a sorry gain, § 102, quaestiunculam. πραγματικοί, whose business it was to collect the legal material, the passages of the laws and deeds bearing on the case, and in the trial to furnish money to the parties, § 253. [Cf. Juv. VII. 123, with Mr Mayor's note.]

nistros se praebent in iudiciis oratoribus, ei, qui apud illos πραγματικοὶ vocantur, sic in nostra civitate contra amplissimus quisque et clarissimus vir, ut ille, qui propter hanc iuris civilis scientiam sic appellatus a summo poëta est:

Egregie cordatus homo, catus Aelius Sextus,

multique praeterea, qui cum ingenio sibi dignitatem peperissent, perfecerunt, ut in respondendo iure auctoritate plus etiam quam ipso ingenio valerent. Senectuti 199
vero celebrandae et ornandae quod honestius potest esse perfugium, quam iuris interpretatio? equidem mihi hoc subsidium iam inde ab adulescentia comparavi, non solum ad causarum usum forensem, sed etiam ad decus atque ornamentum senectutis, ut, cum me vires, quod fere iam tempus adventat, deficere coepissent, ista ab solitudine domum meam vindicarem. Quid est enim praeclarius, quam honoribus et rei publicae muneribus perfunctum senem posse suo iure dicere idem, quod apud

2 *in nostra civitate*] etc. as de Legg. I. 4. 14, summos fuisse in civitate nostra viros, qui id (sc. ius civile) interpretari populo et responsitare soliti sint.

4 *a summo poëta*] viz. Ennius in his Annales. The verse occurs elsewhere in Cicero, e. g. Tusc. I. 9. 18. (to explain cor = *animus*) de Rep. I. 18, *Egregie cordatus*, bene animatus, 'of noble soul.'

5 *catus*] Varro, L. L. VII. 46, derives from the Sabine, and explains as equivalent to acutus, so that here it characterizes the 'sharp' jurist.

Aelius] pronounced Aeliu' Or. 48. 161. Quin etiam, quod iam subrusticum videtur, olim autem politius, eorum verborum, quorum eadem erant postremae duae litterae, quae sunt in 'optimus,' postremam litteram detrahebant, nisi vocalis insequetur. Ita non erat ea offensio in versibus, quam nunc fugiunt poetae novi. Ita enim loquebamur: 'qui est omnibu' princeps' non 'omnibus princeps' (Echthlipsis) [cf. Madvig, § 22, obs. 4].

6 *ingenio sibi*] [The MSS. add *auctore;* which most critics reject: Baiter thinks the word corrupted from acutiore; Or. conjectures ingenii sibi acumine: K. retains auctore] P.

7 *in respondendo*] § 212.

13 *senectutis*] So Cicero in reference to himself, de Leg. I. 3. 4, ego vero aetatis potius vacationi confidebam, cum praesertim non recusarem quominus more patrio sedens in solio consulentibus responderem, *senectutisque* non inertis grato atque honesto fungerer munere.

14 *quod fere iam tempus adventat*] though only 49 years old Crassus reckoned himself already among the senes. II. 4. 15.

17 *apud Ennium*] The fragment (in iambic senarii) is from a tragedy of Ennius; according to Ribbeck from the Eumenides.

Ennium [dicat] ille Pythius Apollo, se esse eum, 'unde sibi,' si non 'populi et reges,' at omnes sui cives 'consilium expetant,'

> **Summarum rerum incerti: quos ego ope mea**
> **Ex incertis certos compotesque consili**
> **Dimitto, ut ne res temere tractent turbidas:**

est enim sine dubio domus iuris consulti totius oraculum civitatis; testis est huiusce Q. Mucii ianua et vestibulum, quod in eius infirmissima valetudine adfectaque iam aetate maxima cotidie frequentia civium ac summorum hominum splendore celebratur. 200

Iam illa non longam orationem desiderant, quam ob rem existimem publica quoque iura, quae sunt propria civitatis atque imperii, tum monumenta rerum gestarum et vetustatis exempla oratori nota esse debere; nam ut in rerum privatarum causis atque iudiciis depromenda saepe oratio est ex iure civili et idcirco, ut ante diximus, oratori iuris civilis scientia necessaria est, sic in causis publicis iudiciorum, contionum, senatus omnis haec et antiquitatis memoria et publici iuris auctoritas et regendae rei publicae ratio ac scientia tamquam aliqua materies eis oratoribus, qui versantur in re publica, subiecta esse debet; non enim causidicum nescio quem neque procla- 46 201 202

1 *dicat*] prob. interpolated.

Pythius Apollo] So as a rule in Cicero, the God who gives oracles at Delphi, de Off. II. 22. 77, Apollo Pythius oraculum edidit.

4 *Summarum*] (which most MSS. have) deserves to be preferred to the other reading suarum. Instead of the usual ex Ribbeck reads pro *metri gratia*.

6 *temere tractent turbidas*] an intentional employment of alliteration [cf. Sellar's Roman Poets of the Republic, on Ennius].

turbidas] which therefore in consequence of the difficulty of seeing one's way in them, needed the divine direction.

8 *Q. Mucii*] Brut. 89. 206.

9 *adfectaque*] he was already 70 years old.

13 *publica iura*] Dig. I. 1, publicum ius est quod ad statum rei Romanae spectat, privatum, quod ad singulorum utilitatem.

18 *in causis publicis iudiciorum*] in criminal cases.

19 *haec et antiquitatis memoria*] the political circumstances of the present and the past. *auctoritas*, value.

23 *causidicum*] Cr. uses three characteristic instances from public (forensic) life: *causidicus*, a hole-and-corner advocate and manager of

matorem aut rabulam hoc sermone nostro conquirimus sed eum virum, qui primum sit eius artis antistes, cuius cum ipsa natura magnam homini facultatem daret, tamen adfuisse deus putatur, ut id ipsum, quod erat hominis prius, non partum per nos, sed divinitus ad nos delatum videretur; deinde, qui possit non tam caduceo quam

suits, *proclamator* (not declamator, for he is not de foro but de ludo, Or. 15. 47, nor yet merely clamator, for that would only denote a peculiarity not an occupation), one of the subordinate officers of the court, who had to make the proclamatio or loud announcement of the sentence: and *rabula* (either from rabies, or from rava, i. e. rauca vox) de foro (Or. 15. 47), who without any education had acquired a superficial knowledge of some formulae used in suits and now offers his services to litigants, especially from the country. Quint. XII. 1. 25. Non enim forensem quandam instituimus operam nec *mercenariam vocem* nec, ut asperioribus verbis parcamus, non inutilem sane *litium advocatum*, quem denique *causidicum* vulgo vocant, sed virum cum ingenii natura praestantem tum vero pulcherrimas artes penitus mente complexum, datum tandem rebus humanis, qualem nulla antea vetustas cognoverit, singularem perfectamque undique, optima sentientem optimeque dicentem.

nescio quem] § 91; III. 24. 81.

2 *antistes*] ['high-priest'] because of the divine origin of the ars oratoria, or because of the sacra oratoria, whose care devolves upon him. [Cf. ant. iuris, Quint. XI. 1. 69.]

3 *ipsa natura*] without divine assistance.

tamen adfuisse deus putatur] To the MS. reading tamen esse deus putatur the following imperfect is decisively opposed (for to supply a clause, sc. qui dedit hominibus hanc facultatem evidently will not do). Hence it has been proposed to read invenisse (Madv.) or dedisse (Klohr and Kayser), Quint. X. 7. 14 is quoted to show that often the most carefully prepared speech did not at all come up to words spoken with spirit but without preparation (si calor ac spiritus tulit, frequenter accidit, ut successum extemporalem consequi cura non posset), and then to explain this fact he adds: *deum tunc adfuisse veteres oratores, ut Cicero dicit, aiebant.* To this expression of the veteres oratores Cicero here refers. In order to justify the position, that an orator must be an *antistes eius artis*, Cr. points to the belief in a creative cooperation of the deity with the oratorical gift. (Ovid, Met. I. 21. Hanc *deus* et melior litem *natura* diremit): for even if the power of nature gave man the high gift of speech, this did not happen without the Deity, it was cooperating creatively; hence this which might appear from a natural point of view a faculty peculiar to the personal being of man, in accordance with his nature, still, on the other side appears as one of the divine gifts granted from above.

4 *id ipsum*] The MS. reading et is only a corruption of id, which cannot be omitted here, § 74; Quint. X. 7. 12, sed hic usus ita proderit, si ars antecesserit, ut *ipsum illud*, quod in se rationem non habet, in ratione versetur.

quod erat] in reality (otherwise esset would be required).

6 *caduceo*] the oratores were accustomed to carry it as legati, as envoys of peace or as bearers of a flag of truce, and thereby were safe from every attack; for caduceatori nemo homo nocet.

nomine oratoris ornatus incolumis vel inter hostium tela versari; tum, qui scelus fraudemque nocentis possit dicendo subiicere odio civium supplicioque constringere idemque ingenii praesidio innocentiam iudiciorum poena liberare; idemque languentem labentemque populum aut ad decus excitare aut ab errore deducere aut inflammare in improbos aut incitatum in bonos mitigare; qui denique, quemcumque in animis hominum motum res et causa postulet, eum dicendo vel excitare possit vel sedare. Hanc vim si quis existimat aut ab eis, qui de dicendi 203
ratione scripserunt, expositam esse aut a me posse exponi tam brevi, vehementer errat neque solum inscientiam meam, sed ne rerum quidem magnitudinem perspicit: equidem vobis, quoniam ita voluistis, fontes, unde hauriretis, atque itinera ipsa ita putavi esse demonstranda, non ut ipse dux essem, quod et infinitum est et non necessarium, sed ut commonstrarem tantum viam et, ut fieri solet, digitum ad fontes intenderem.'

'Mihi vero' inquit Mucius 'satis superque abs te vide- 47
tur istorum studiis, si modo sunt studiosi, esse factum; 204
nam, ut Socratem illum solitum aiunt dicere perfectum

1 *oratoris*] 'speaker,' here with an intentional ambiguous reference to the meaning of legatus, Liv. v. 1. 6. Q. Fabio dies dicta est, quod *legatus* in Gallos, ad quos missus erat *orator*, contra ius gentium pugnasset. Liv. I. 38. 2, estisne vos legati oratoresque missi a populo Collatino? Varro, ap. Non. p. 529, priusquam indicerent bellum eis, a quibus iniurias factas sciebant, fetiales legatos res repetitum mittebant quatuor, quos *oratores* vocabant.

5 *labentemque*] de Off. I. 6. 18, *labi* autem, *errare*, nescire, decipi et malum et turpe ducimus.

12 *inscientiam*] § 99, *rerum*, all which belong to ars dicendi; rei would have denoted the ars oratoria itself, § 16.

17 *commonstrarem*] cf. II. 41. 174. *ut fieri solet*] sc. a commonstrantibus itinera.

19 *Transition to the second main division of the first book, the immediately following speech of Antonius in reply* (47. 204—48. 209).

21 *Socratem, &c.*] It would be hard to find in Xenophon or Plato an expression of Soc. verbally corresponding to this; but it is in entire harmony with his whole method of procedure and tendency, inasmuch as he did not offer to his disciples a complete cut-and-dried system of truths, but ever tried to awaken in them, by showing the worthlessness of their knowledge, the striving after the true knowledge.

sibi opus esse, si qui satis esset concitatus cohortatione sua ad studium cognoscendae percipiendaeque virtutis; quibus enim id persuasum esset, ut nihil mallent esse se, quam bonos viros, eis reliquam facilem esse doctrinam; sic ego intellego, si in haec, quae patefecit oratione sua Crassus, intrare volueritis, facillime vos ad ea, quae cupitis, perventuros ab hoc aditu ianuaque patefacta.' 'Nobis vero' inquit Sulpicius 'ista sunt pergrata perque 205 iucunda; sed pauca etiam requirimus in primisque ea, quae valde breviter a te, Crasse, de ipsa arte percursa sunt, cum illa te et non contemnere et didicisse confiterere: ea si paulo latius dixeris, expleris omnem exspectationem diuturni desiderii nostri; nam nunc, quibus studendum rebus esset accepimus, quod ipsum est tamen magnum: sed vias earum rerum rationemque cupimus cognoscere.' 'Quid? si,' inquit Crassus 'quoniam ego, quo facilius vos 206 apud me tenerem, vestra potius obsecutus sum voluntati, quam aut consuetudini aut naturae meae, petimus ab Antonio, ut ea, quae continet neque adhuc protulit, ex quibus unum libellum sibi excidisse [iam] dudum questus est, explicet nobis et illa dicendi mysteria enuntiet?' 'Ut videtur,' inquit Sulpicius 'nam Antonio dicente etiam quid tu intellegas sentiemus.' 'Peto igitur' inquit Crassus 207

7 *ab hoc*] sc. Crasso.

10 *breviter*] § 148, confiterere, § 137, tamen, 'to be sure,' II. 22. 91.

12 [*latius &c.* = fusius, opposed to pressius.]

18 *consuetudini*] II. 4. 15, cf. I. 35. 163.

19 *continet*] like concealed treasure in the treasury of his knowledge.

20 *dudum*] (for iam ought not to be inserted), 'before' or 'above,' § 94; II. 65. 262, dixi enim dudum, rationem aliam esse ioci, aliam severitatis. Brut. 36. 138; 72. 252, ut dudum de Laeliorum et Muciorum familias audiebamus.

questus est] with a playful reference to the well-known reluctance of Antonius to publish anything, pro Cluent. 50. 140, Hominem ingeniosum M. Antonium aiunt solitum esse dicere, idcirco se nullam unquam orationem scripsisse, ut, si quid aliquando non opus esset ab se esse dictum, posset negare dixisse.

21 *mysteria*] pro Mur. 11. 25, deinde etiamsi quid apud maiores nostros fuit in isto studio admirationis, id *enuntiatis* vestris *mysteriis* totum est contemptum et abiectum. [Cic. is ridiculing the jurisconsults]. Tusc. IV. 25. 55, ne rhetorum aperiamus mysteria.

23 *quid tu intellegas sentiemus*] 'we

'a te, quoniam id nobis, Antoni, hominibus id aetatis oneris ab horum adulescentium studiis imponitur, ut exponas, quid eis de rebus, quas a te quaeri vides, sentias.' 'Deprehensum equidem me' inquit Antonius 'plane video 48 atque sentio, non solum quod ea requiruntur a me, quorum sum ignarus atque insolens, sed quia, quod in causis valde fugere soleo, ne tibi, Crasse, succedam, id me nunc isti vitare non sinunt; verum hoc ingrediar ad ea, quae 208 voltis, audacius, quod idem mihi spero usu esse venturum in hac disputatione, quod in dicendo solet, ut nulla exspectetur ornata oratio: neque enim sum de arte dicturus, quam numquam didici, sed de mea consuetudine; ipsaque illa, quae in commentarium meum rettuli, sunt eius modi, non aliqua mihi doctrina tradita, sed in rerum usu causisque tractata; quae si vobis, hominibus eruditissimis, non probabuntur, vestram iniquitatem accusatote, qui ex me ea quaesieritis, quae ego nescirem; meam facilitatem laudatote, cum vobis non meo iudicio, sed vestro studio inductus non gravate respondero.' Tum Crassus 'perge 209 modo,' inquit 'Antoni; nullum est enim periculum, ne quid tu eloquare nisi ita prudenter, ut neminem nostrum paeniteat ad hunc te sermonem impulisse.'

'Ego vero,' inquit, 'pergam et id faciam, quod in prin-

shall learn or ascertain (by the mouth of Antonius) what your own ideas are'; the usual transposition: quid tu sentias, intelligemus is not needed.

1 *hominibus id aetatis*]—Crassus was born B.C. 140. Antonius B.C. 143; [for *id aetatis* cf. ad Att. IV. 16. 3, and for *id—oneris* Madv. § 467, c.]

4 *Deprehensum.*] Antonius falls in with the sportive humorous tone which Cr. had started. Hence perhaps the redundancy of the expression video atque sentio, 'I see and feel myself quite surprised and in embarrassment.'

7 *succedam.*] The regular expression, when in the second hearing of a case, another advocate defends the same cause. Brut. 22. 87.

12 *de mea consuetudine*] § 135.

13 *in commentarium meum*] § 94.

17 *nescirem*] in the mind eorum qui quaesierunt, 'of which I, as you well knew, understood nothing.' [Madv. § 361].

23 *The speech of Antonius in reply* (48. 209—61. 262).

faciam] just as Scipio de Rep. I. 24, faciam quod vultis ut potero, et ingrediar disputationem ea lege

cipio fieri in omnibus disputationibus oportere censeo, ut, quid illud sit, de quo disputetur, explanetur, ne vagari et errare cogatur oratio, si ei, qui inter se dissenserint, non idem esse illud, quo de agitur, intellegant. Nam si forte quaereretur quae esset ars imperatoris, constituendum putarem principio, quis esset imperator; qui cum esset 210
constitutus administrator quidam belli gerendi, tum adiungerem de exercitu, de castris, de agminibus, de signorum collationibus, de oppidorum oppugnationibus, de commeatu, de insidiis faciendis atque vitandis, de reliquis rebus, quae essent propriae belli administrandi; quarum qui essent animo et scientia compotes, eos esse imperatores dicerem, utererque exemplis Africanorum et Maximorum, Epaminondam atque Hannibalem atque eius generis homines nominarem; sin autem quaereremus quis 211
esset is, qui ad rem publicam moderandam usum et scientiam et studium suum contulisset, definirem hoc modo: qui quibus rebus utilitas rei publicae pareretur augeretur-que, teneret eisque uteretur, hunc rei publicae rectorem

qua credo in omnibus rebus disserendis utendum esse, si errorem velis tollere, ut eius rei, de qua quaeritur, si nomen quod sit conveniat, explicetur quid declaretur eo nomine. Quod si convenerit, tum demum decebit ingredi in sermonem; nunquam enim, *quale sit illud, de quo disputabitur*, intellegi poterit, nisi quid sit fuerit intellectum prius. Or. 33. 116.

2 *vagari et errare*] to waver hither and thither uncertainly without any fixed aim and definite direction.

4 *esse*] if it is not settled among the disputants, that the special point in dispute is one and the same, that the discussion therefore tends to one object.

quo de agitur] so also de Inv. I. 19. 27, ad Her. I. 5. 8; II. 12. 18; 29. 46.

6 Antonius follows completely the order of the proemium, in that he refers first to the practical activity of the general, the statesman and the jurist, and then and not till then passes over to the departments of activity which are purely scientific or at least not directly comprehended in practical life.

12 *animo et scientia*] i.e. not merely had theoretical knowledge of them, but were masters of them with all their heart (not merely in the head—scientia—but also in the heart—animo).

13 *Africanorum*] II. 71. 290, with the many great Roman generals only one Greek and one Carthaginian are named:—all distinguished for their strategical tactics.

19 *rectorem*] 'the pilot of the ship of the state,' *consilii publici auctorem* on whose language and advice in all state matters the decision depends, § 215.

et consilii publici auctorem esse habendum, praedicaremque P. Lentulum principem illum et Ti. Gracchum patrem et Q. Metellum et P. Africanum et C. Laelium et innumerabiles alios cum ex nostra civitate tum ex ceteris; sin 212
autem quaereretur quisnam iuris consultus vere nominaretur, eum dicerem, qui legum et consuetudinis eius, qua privati in civitate uterentur, et ad respondendum et ad agendum et ad cavendum peritus esset, et ex eo genere Sex. Aelium, M'. Manilium, P. Mucium nominarem; at- 49
que, ut iam ad leviora artium studia veniam, si musicus, si grammaticus, si poëta quaeratur, possim similiter explicare, quid eorum quisque profiteatur et quo non amplius ab quoque sit postulandum; philosophi denique ipsius, qui de sua vi ac sapientia unus omnia paene profitetur, est tamen quaedam descriptio, ut is, qui studeat omnium rerum divinarum atque humanarum vim, naturam causasque nosse et omnem bene vivendi rationem tenere et persequi, nomine hoc appelletur: oratorem autem, quoniam de eo quaerimus, equidem non facio eundem, quem Crassus, qui mihi visus est omnem omnium 213
rerum atque artium scientiam comprehendere uno oratoris officio ac nomine; atque eum puto esse, qui et verbis ad

7 *ad respondendum*] [the duties of a jurisconsult were principally four, (1) *respondere*, to pronounce legal opinions on questions laid before him; (2) *cavere*, to inform those who consulted him of all legal precautions needful to preserve them from fraud or detriment; (3) *agere*, to manage a case; and (4) *scribere*, to draw up the proper formulae.] P.

10 *ad leviora studia*] Corn. Nep. Epam. 2, atque haec (music, philosophy, and scientific pursuits in general) ad nostrum consuetudinem sunt levia et potius contemnenda. Brut. 1. 3, Etenim si in leviorum artium studio memoriae proditum est, &c.

12 *quo non amplius*] as the maximum.

15 *qui studeat*] de Off. II. 2. 5, nec quidquam aliud est philosophia, si interpretari velis, praeter studium sapientiae; sapientia autem est, ut a veteribus philosophis definitum est, rerum divinarum et humanarum, causarumque quibus hae res continentur, scientia.

18 *tenere*] on the theoretical, *persequi* on the practical side of the carrying out of this in life.

22 *atque*] adds the special positive definition to the mere declaration of dissent from Crassus; *and far rather*.

audiendum iucundis et sententiis ad probandum accommodatis uti possit in causis forensibus atque communibus: hunc ego appello oratorem eumque esse praeterea instructum voce et actione et lepore quodam volo; Crassus vero 214
mihi noster visus est oratoris facultatem non illius artis terminis, sed ingenii sui finibus immensis paene describere; nam et civitatum regendarum oratori gubernacula sententia sua tradidit, in quo per mihi mirum visum est, Scaevola, te hoc illi concedere, cum saepissime tibi senatus breviter impoliteque dicenti maximis sit de rebus adsensus; M. vero Scaurus, quem non longe ruri apud se esse audio, vir regendae rei publicae scientissimus, si audierit hanc auctoritatem gravitatis et consilii sui vindicari a te, Crasse, quod eam oratoris propriam esse dicas, iam, credo, huc veniat et hanc loquacitatem nostram voltu ipso aspectuque conterreat; qui quamquam est in dicendo minime contemnendus, prudentia tamen rerum magnarum magis quam dicendi arte nititur. Neque vero, si quis 215
utrumque potest, aut ille consilii publici auctor ac senator bonus ob eam ipsam causam orator est aut hic disertus atque eloquens, si est idem in procuratione civitatis egregius, illam scientiam dicendi copia est consecutus: multum inter se distant istae facultates longeque sunt diversae

[*ad aud.*, Madv. § 412. obs. 3.]

4 *lepore quodam*] § 17.

5 *facultatem*] what he ought to perform, his task, § 226.

7 *et*] the second idea which ought to correspond with the one here introduced by et (Philosophy) does not follow till § 219, Neque vero, etc.

8 [*per mihi mirum*. Madv. § 203. obs.]

9 *concedere*] § 74 sqq.

13 *hanc auctoritatem*] the consideration which resulted from the integrity of his personal character, and his insight as a statesman.

15 *loquacitatem*] in the opinion of Scaurus, in whose eyes this was nothing more than loquacitas.

17 *prudentia*] 'sagacious treatment.'

17 *rerum magnarum*] § 20.

22 *illam*] Thus we must without doubt read, as is evident from the context, sc. consilii publici auctoris et senatoris boni, just as in § 236: just as little as a good statesman who is at the same time a good orator owes his oratorical ability to the art of statecraft, just so little does a good orator who is at the same time a good statesman owe his statesmanlike ability to the art of oratory. [MSS. and Ell. aliquam, Kayser and others alienam.]

atque seiunctae neque eadem ratione ac via M. Cato, P. Africanus, Q. Metellus, C. Laelius, qui omnes eloquentes fuerunt, orationem suam et rei publicae dignitatem exornabant; neque enim est interdictum aut a rerum natura 50
aut a lege aliqua atque more, ut singulis hominibus ne amplius quam singulas artes nosse liceat. Qua re non, 216
etsi eloquentissimus Athenis Pericles idemque in ea civitate plurimos annos princeps consilii publici fuit, idcirco eiusdem hominis atque artis utraque facultas existimanda est, nec, si P. Crassus idem fuit eloquens et iuris peritus, ob eam causam inest in facultate dicendi iuris civilis scientia. Nam si ut quisque in aliqua arte et facultate 217
excellens aliam quoque artem sibi adsumpserit, is perficiet, ut, quod praeterea sciet, id eius, in quo excellet, pars quaedam esse videatur, licet ista ratione dicamus pila bene et duodecim scriptis ludere proprium esse iuris civilis,

1 *M. Cato*, etc.] as statesmen.

3 *exornabant*] an expression which in its general meaning refers to dignitatem, in its special meaning to orationem: it was not one and the same art, with which they raised the style of their discourse and the dignity of the state, but two different arts.

8 *plurimos annos*] if taken exactly from 444 [the date of the ostracism of Thucydides the son of Milesias] to 429, in the widest sense, if we go back to 465, in round numbers 40 years. [Pericles first took part in public affairs in 469: for his eloquence cf. Brut. 7. 28, and a fragment of the Δῆμοι of Eupolis: *κράτιστος οὗτος ἐγένετ' ἀνθρώπων λέγειν — πειθώ τις ἐπεκάθιζεν ἐπὶ τοῖς χείλεσιν | οὕτως ἐκήλει καὶ μόνος τῶν ῥητόρων | τὸ κέντρον ἐγκατέλειπε τοῖς ἀκροωμένοις.*]

9 *eiusdem hominis*] Because Pericles was as great an orator as he was a statesman, we must not conclude that the same person, because he possesses the one art, *eo ipso* has the other also.

12 *Nam si ut quisque*] Thus the words are to be arranged, after the analogy of other instances, instead of si quisque ut. *is* where we should have expected ita (II. 77. 313) is found in just the same way in de Off. 1. 5. 16, ut enim quisque perspicit—is prudentissimus haberi solet. 'For if as soon as a man has acquired in addition to his excellence in his own art another art besides, it is to follow that this *πάρεργον* is to be regarded as an essential part of the art in which he excels, then on this principle, we may say' &c. From the absurdity of this consequence follows the incorrectness of the assumption.

quisque] *is*, § 130. *pila*, § 73.

16 *duodecim scriptis*] [a game which resembled our backgammon. The abacus (the table or board for the game) was divided into twelve squares: the two sets of six squares on each side were separated from each other by two cross lines. The game was played by two, with three

quoniam utrumque eorum P. Mucius optime fecerit; eademque ratione dicantur et, quos φυσικοὺς Graeci nominant, eidem poëtae, quoniam Empedocles physicus egregium poëma fecerit. Ac hoc ne philosophi quidem ipsi, qui omnia sicut propria sua esse atque a se possideri volunt, dicere audent, geometriam aut musicam philosophi esse, quia Platonem omnes in illis artibus praestantissimum fuisse fateantur; ac si iam placet omnes artes oratori 218
subiungere, tolerabilius est sic potius dicere, ut, quoniam dicendi facultas non debeat esse ieiuna atque nuda, sed adspersa atque distincta multarum rerum iucunda quadam varietate, sit boni oratoris multa auribus accepisse, multa vidisse, multa animo et cogitatione, multa etiam legendo percucurrisse, neque ea ut sua possedisse, sed ut aliena libasse; fateor enim callidum quendam hunc et nulla in re tironem ac rudem nec peregrinum atque hospitem in agendo esse debere.

Neque vero istis tragoediis tuis, quibus uti philosophi 51
maxime solent, Crasse, perturbor, quod ita dixisti, nemi- 219

stones or pieces each. Ov. A. A. III. 363—366. Est genus in totidem tenui ratione redactum | Scriptula, quot menses lubricus annus habet. | Parva tabella capit ternos utrinque lapillos, | In qua vicisse est continuasse suos.] P.

5 *sicut propria*] Herein, in the opinion of Ant., lay the exaggeration of the philosophers, not merely that they wished in general to take possession of everything, but that they claimed everything as their own (even that which according to their own admission belonged to other arts and sciences) *in precisely the same manner* as that which really belonged to them, especially philosophical subjects. Ell. and Kayser consider the words a gloss, which does not belong to the text.

10 *ieiuna*] dry and sapless, *nuda* without dress or ornament: to the former corresponds *adspersa*, seasoned, furnished with the necessary additions; to the latter *distincta*, adorned, like a richly decorated robe, which however still remains simple or at least does not annoy by excess of ornament (*iucunda*).

15 *libasse*] § 159 *in agendo*, emphatically, in practice; but for this he can sufficiently instruct himself.

§ 219 The reply of Antonius is directed *first* against the position of Crassus, that *the study of philosophy* is necessary for an orator, 51. 219—55. 234.

18 *tragoediis*] your phrases that stalk along as it were on the tragic buskin. (II. 51. 205.)

tuis] is softened by the addition quibus uti philosophi solent.

nem posse eorum mentes, qui audirent, aut inflammare dicendo aut inflammatas restinguere, cum eo maxime vis oratoris magnitudoque cernatur, nisi qui hominum naturas mores atque rationes penitus perspexerit, in quo philosophia sit oratori necessario percipienda; quo in studio hominum quoque ingeniosissimorum otiosissimorumque totas aetates videmus esse contritas; quorum ego copiam magnitudinemque cognitionis atque artis non modo non contemno, sed etiam vehementer admiror; nobis tamen, qui in hoc populo foroque versamur, satis est ea de moribus animorum et scire et dicere quae non abhorrent ab hominum moribus. Quis enim umquam orator magnus et gravis, cum iratum adversario iudicem facere vellet, haesitavit ob eam causam, quod nesciret, quid esset iracundia, fervorne mentis an cupiditas puniendi doloris? Quis, cum ceteros animorum motus aut iudicibus aut populo dicendo miscere atque agitare vellet, ea dixit, quae a philosophis dici solent? qui partim omnino motus

1 *audirent*] the imperfect in connection with dixisti, whilst cernatur and perspexerit follow restinguere posse.

3 *hominum naturas* &c.] §§ 53, 60, 165. Dial. de Oratt. 31, de quibus (sc. de bonis ac malis, dehonesto et turpi) copiose et varie et ornate nemo dicere potest, nisi qui cognovit *naturam humanam* et vim virtutum pravitatemque vitiorum et intellectum eorum, quae nec in virtutibus nec in vitiis numerantur.

7 *totas aetates*] for from the time of Socrates and Plato in almost all schools of philosophers, ethics was the central point, with which all the rest was connected.

10 *de* moribus and *ab* hominum moribus, opposed to each other with intentional emphasis: 'for the orator, who speaks for actual life, it is sufficient to know *about* human character and to speak what is not *contrary* to it,' with a slight noticeable side-blow at the philosophers (§ 224), especially the Stoics, who maintained positions which contradicted practical life.

17 *miscere*] to set in a ferment. Or. part. 6. 22, maximeque movet ea quae motum aliquem animi miscet oratio.

agitare] to throw into excitement.

18 *partim*] like the Stoics with their ἀπάθεια, § 230; III. 18. 65, sapientis animum nunquam nec cupiditate moveri nec laetitia efferri. Acad. II. 44. 135.

partim] like the Peripatetics, 'qui perturbari animos necesse dicunt esse, sed adhibent modum quendam, quem ultra progredi non oporteat,' Tusc. IV. 17. 38. Mediocritates illi probabant et in omni permotione naturalem volebant esse quendam modum, Acad. II. 44. 135.

negant in animis ullos esse debere, quique eos in iudicum mentibus concitent, scelus eos nefarium facere; partim, qui tolerabiliores volunt esse et ad veritatem vitae propius accedere, permediocres ac potius leves motus debere esse dicunt. Orator autem omnia haec, quae putantur in com- 221
muni vitae consuetudine mala ac molesta et fugienda, multo maiora et acerbiora verbis facit; itemque ea, quae volgo expetenda atque optabilia videntur, dicendo amplificat atque ornat, neque volt ita sapiens inter stultos videri, ut ei, qui audiant, aut illum ineptum et Graeculum putent, aut, etiamsi valde probent ingenium, oratoris sapientiam admirentur, se esse stultos moleste ferant; sed 222
ita peragrat per animos, ita sensus hominum mentesque pertractat, ut non desideret philosophorum descriptiones neque exquirat oratione, summum illud bonum in animone sit an in corpore, virtute an voluptate definiatur, an haec inter se iungi copularique possint; an vero, ut quibusdam visum, nihil certum sciri, nihil plane cognosci et

6 *mala ac molesta et fugienda*] to be taken in two parts, mala ac molesta, and therefore to be avoided, while bona et iucunda expetenda sunt.

9 *ita*] under the condition, *sapiens*, as the Stoic philosopher is ὁ σοφὸς opposed to one who is not a philosopher, the ἄφρων. § 83.

10 *ut ei qui*] not ut qui, as also the Erl. I. b. has uti=ut ei or ii, §§ 87. 165.

illum] ἐκεῖνον, him as opposed to se, § 170. *ineptum*, II. 4. 17.

Graeculum] § 47.

11 *probent ingenium oratoris*] opposed to Graeculum: *sapientiamque admirentur* opposed to ineptum. The copulative -que is not found in MSS. but cannot be spared here. The connection is just the same as above, § 219, vis oratoris magnitudoque.

13 *peragrat*] draws such furrows, cuts so deep. [Rather, 'traverses so widely'.]

14 *pertractat*] works upon hearts as the farmer on the soil. *descriptiones*, definitions, § 217.

15 *summum bonum*] Tusc. V. 30. 84 sq. Sunt autem hae de finibus (bonorum) sententiae: nihil bonum, nisi *honestum*, ut Stoici; nihil bonum, nisi *voluptatem*, ut Epicurus. Haec simplicia: illa mixta; tria genera bonorum, maxima *animi*, secunda *corporis*, *externa* tertia, ut Peripatetici, nec multo veteres Academici secus. *Voluptatem cum honesto* Dinomachus et Callipho copulavit.

17 *quibusdam*] especially to the Sceptics or Pyrrhonists and the New Academy (Arcesilas), III. 18. 67.

18 *nihil certum*] in general, and also with reference to the highest good. To certum corresponds afterwards, only in an adverbial form, plane.

percipi possit; quarum rerum fateor magnam multiplicemque esse disciplinam et multas copiosas variasque rationes; sed aliud quiddam, longe aliud, Crasse, quae- 22
rimus: acuto homine nobis opus est et natura usuque callido, qui sagaciter pervestiget, quid sui cives eique homines, quibus aliquid dicendo persuadere velit, cogitent, sentiant, opinentur, exspectent; teneat oportet venas cuiusque generis, aetatis, ordinis, et eorum, apud quos 52
aliquid aget aut erit acturus, mentes sensusque degustet; philosophorum autem libros reservet sibi ad huiusce modi 24
Tusculani requiem atque otium, ne, si quando ei dicendum erit de iustitia et fide, mutuetur a Platone; qui, cum haec exprimenda verbis arbitraretur, novam quandam finxit in libris civitatem; usque eo illa, quae dicenda de iustitia putabat, a vitae consuetudine et a civitatum moribus abhorrebant: quodsi ea probarentur in populis atque 25

5 *pervestiget*] II. 34. 147.

7 *venas*] as the miner the lodes of metal, the essential features, the character. Dial. de. Oratt. 31, orator —tenebit venas animorum et prout cuiusque natura postulabit, adhibebit manum et temperabit orationem.

9 *aget aut erit acturus*] at some future time or immediately [Madv. § 343].

degustet] 'tastes,' as a connoisseur wine, or an epicure food, with fine taste.

11 *otium*] time free from business in which he is therefore not exposed to the danger of making use of such purely *doctrinaire* views.

13 *verbis*] intentional emphasis in order to indicate impractical character of such a commencement; the real political life is much too varied to allow a definite generally appropriate picture of it to be drawn. Hence Plato was obliged to construct in his imagination an entirely new state.

14 *finxit*] in his celebrated work πολιτεία ἢ περὶ δικαίου, de Rep. II. 11, Nam princeps ille quo nemo in scribendo praestantior fuit aream sibi sumpsit in qua *civitatem exstrueret arbitratu suo*, praeclaram illam quidem fortasse, sed a vita hominum abhorrentem et moribus. Hence § 230, in illa commenticia Platonis civitate, which in reality never existed.

in libris] according to our expression 'on paper,' opposed to practical life.

Cicero makes A. introduce three instances very characteristic of the history of that period:—the speech of Crassus pro lege Servilia (B. C. 106), in which the grave dissension between the senatorial party and the Equites shewed itself; and the trials of Galba and Rutilius Rufus, in which preeminently the rapid declension in the feeling of justice manifested itself in a frightful form *in populis atque in civitatibus*, in the actual life of nations and states.

in civitatibus, quis tibi, Crasse, concessisset, clarissimo viro et amplissimo principi civitatis, ut illa diceres in maxima contione tuorum civium, quae dixisti? 'eripite nos ex miseriis, eripite ex faucibus eorum, quorum crudelitas nostro sanguine non potest expleri; nolite sinere nos cuiquam servire, nisi vobis universis, quibus et possumus et debemus.' Omitto 'miserias,' in quibus, ut illi aiunt, vir fortis esse non potest; omitto 'fauces,' ex quibus te eripi vis, ne iudicio iniquo exsorbeatur sanguis tuus, quod sapienti negant accidere posse: 'servire' vero non modo te, sed universum senatum, cuius tum causam agebas, ausus es dicere! potestne virtus, Crasse, servire istis auc- 226
toribus, quorum tu praecepta oratoris facultate complecteris? quae et semper et sola libera est quaeque, etiamsi corpora capta sint armis aut constricta vinculis, tamen suum ius atque omnium rerum impunitam libertatem tenere debeat. Quae vero addidisti, non modo senatum servire 'posse' populo, sed etiam 'debere,' quis hoc philo-

5 *nostro sanguine non potest expleri*] the emphasis lies on nostro, an important sign that the cruelty of the publicani, like that of beasts of prey, if the Senate first became their spoil, would fall upon the people with so much the more greed, like a tiger which has once licked blood; reason sufficient for the people to protect the Senate against the '*inexplebiles* equitum fauces' for the sake of their own deliverance; for "si istum (ordinem) impunitum dimiseritis in vosmet ipsos, mihi credite, feram et truculentam bestiam immiseritis" ad Her. IV. 39. 51. Cf. de Rep. I. 43. 66, inexplebiles populi fauces exaruerunt libertatis siti. Probably here too came the sentence quoted in Or. 65. 219, from the speech of Crassus: nam ubi lubido dominatur, innocentiae leve praesidium est.

7 *ut illi aiunt*] sc. Stoici as Cicero explains further in Parad. II., ὅτι αὐτάρκης ἡ ἀρετὴ πρὸς εὐδαιμονίαν; ut improbo et stulto et inerti nemini bene esse potest, sic bonus vir et *fortis* et sapiens miser esse non potest. In Pison. 18. 42, sapientem dicunt, etiamsi in Phalaridis tauro inclusus succensis ignibus torreatur, dicturum tamen, suave illud esse seseque ne tantulum quidem commoveri. Tantum virtutis esse vim noluerunt, ut non possent unquam esse vir bonus non beatus.

12 [*Potestne*, Madv. § 451. a]. *virtus*, Phil. IV. 5. 13, Quanquam alia omnia incerta sunt caduca mobilia, virtus est una altissimis defixa radicibus quae nunquam ulla vi labefactari potest, nunquam demoveri loco.

istis auctoribus] according to their principles, Parad. V. ὅτι μόνος ὁ σοφὸς ἐλεύθερος.

16 *suum ius*] their independence.

impunitam] unlimited.

sophus tam mollis, tam languidus, tam enervatus, tam omnia ad voluptatem corporis doloremque referens probare posset, senatum servire populo, cui populus ipse moderandi et regendi sui potestatem quasi quasdam habenas tradidisset? Itaque haec cum a te divinitus ego 53
dicta arbitrarer, P. Rutilius Rufus, homo doctus et philo- 227
sophiae deditus, non modo parum commode, sed etiam turpiter et flagitiose dicta esse dicebat; idemque Servium Galbam, quem hominem probe commeminisse se aiebat, pergraviter reprehendere solebat, quod is, L. Scribonio quaestionem in eum ferente, populi misericordiam concitasset, cum M. Cato, Galbae gravis atque acer inimicus, aspere apud populum Romanum et vehementer esset locutus, quam orationem in Originibus suis exposuit ipse. Reprehendebat igitur Galbam Rutilius, quod is C. Sulpicii 228
Galli propinqui sui Q. pupillum filium ipse paene in humeros suos extulisset, qui patris clarissimi recordatione et memoria fletum populo moveret et duos filios suos parvos tutelae populi commendasset ac se, tamquam in procinctu testamentum faceret sine libra atque tabulis, populum Romanum tutorem instituere dixisset illorum orbitati; itaque, cum et invidia et odio populi tum Galba

5 *divinitus*] wonderfully beautifully, §§ 26, 28; II. 29. 127.

11 *quaestionem*] for the rogatio privilegii similis aimed at this [Serv. Sulpicius Galba was prosecuted by the tribune Scribonius in B C. 149, because of his gross treachery to the Lusitanians, but acquitted by working on the compassion of his judges] P.

14 *exposuit*] has stated its line of argument and subs ance, Brut. 21. 81, cuius et aliae orationes et contra Ti. Gracchum exposita est in se Fanni annalibus.

20 *in procinctu*] [originally there were two forms of wills, both of which were made before the people, which in a certain manner made the wish of testator law, (1) test. calatis comitiis conditum, the declaration of the last wishes in the assembly of the people which was held for this purpose; (2) test. in procinctu, originally in the comitia as an army marshalled for battle; afterwards in war before the combat. Whilst the army were forming in battle-array, the generals watched the auspices, and the soldiers standing in line, in procinctu, used this time to declare their last wishes before three or four of their comrades; such a declaration had legal validity without further formalities] P.

tabulis] on which the provisions of the will were written.

premeretur, his eum tragoediis liberatum ferebat; quod item apud Catonem scriptum esse video, nisi pueris et lacrimis usus esset, poenas eum daturum fuisse. Haec Rutilius valde vituperabat et huic humilitati dicebat vel exsilium fuisse vel mortem anteponendam. Neque vero hoc solum dixit, sed ipse et sensit et fecit: nam cum 229
esset ille vir exemplum, ut scitis, innocentiae cumque illo nemo neque integrior esset in civitate neque sanctior, non modo supplex iudicibus esse noluit, sed ne ornatius quidem aut liberius causam dici suam, quam simplex ratio veritatis ferebat. Paullum huic Cottae tribuit partium, disertissimo adulescenti, sororis suae filio; dixit item causam illam quadam ex parte Q. Mucius, more suo, nullo apparatu, pure et dilucide. Quodsi tu tunc, Crasse, dixisses, qui subsidium oratori ex illis disputationibus, quibus phi- 230
losophi utuntur, ad dicendi copiam petendum esse paullo ante dicebas; et, si tibi pro P. Rutilio non philosophorum more, sed tuo licuisset dicere, quamvis scelerati illi fuissent, sicuti fuerunt, pestiferi cives supplicioque digni

1 *tragoediis*] by this piece of theatrical effect.

ferebat] sc. Rutilius.

4 *humilitati*] 'degrading conduct.'

6 *sensit et fecit*] it was his own conviction, and he showed it in action, pro Sest. 40. 86, hoc sentire prudentiae est, facere fortitudinis; 42. 92, Milo et vidit et fecit, ut ius experiretur, vim depelleret.

9 *noluit*] as Erl. 1. b. reads, not voluit, because before sed ne quidem, the second negation in the formula, non modo non can only be omitted if the predicate applicable to both negative clauses is not introduced in the first clause, but only in the second [Madvig, § 461. b (b)]. Hence ad Att. 1. 11, non modo eam voluntatem eius, quae fuerat erga te, recuperare *non* potui, verum ne causam quidem elicere. There is no difficulty caused by the fact that in the second clause voluit must be supplied from the preceding noluit, §§ 111, 134. Still we may perhaps see in this the reason why voluit was written in the first clause.

10 *liberius*] i. e. he wished in his defence to have brought forward nothing throughout which did not strictly pertain to the case: as conversely Cic. pro Arch. oversteps the narrow limits of the cause itself and hence begs the judges (in c. 2) ut —mihi detis hanc veniam, ut me— patiamini de studiis humanitatis ac litterarum paullo loqui liberius. Others prefer to read uberius.

13 *quadam ex parte*] as witness for his innocence, for Rutilius had in fact been the legate of Q. Mucius Scaevola pont. max.

tamen omnem eorum importunitatem ex intimis mentibus evellisset vis orationis tuae: nunc talis vir amissus est, dum causa ita dicitur, ut si in illa commenticia Platonis civitate res ageretur. Nemo ingemuit, nemo inclamavit patronorum, nihil cuiquam doluit, nemo est questus, nemo rem publicam imploravit, nemo supplicavit; quid multa? pedem nemo in illo iudicio supplosit, credo, ne Stoicis renuntiaretur. Imitatus est homo Romanus et consularis 54
veterem illum Socratem, qui, cum omnium sapientissimus 231
esset sanctissimeque vixisset, ita in iudicio capitis pro se ipse dixit, ut non supplex aut reus, sed magister aut dominus videretur esse iudicum; quin etiam, cum ei scriptam orationem disertissimus orator Lysias attulisset, quam, si ei videretur, edisceret, ut ea pro se in iudicio uteretur, non invitus legit et commode scriptam esse dixit; 'sed' inquit 'ut, si mihi calceos Sicyonios attulisses, non uterer, quamvis essent habiles et apti ad pedem, quia non essent viriles,' sic illam orationem disertam sibi et oratoriam videri, fortem et virilem non videri. Ergo ille quoque

1 *importunitatem*] the unconscientiousness or rather shamelessness with which they had resolved to condemn a man who was acknowledged to be innocent. [This scandalous condemnation caused the loss of the iudicia to the equites.]

2 *amissus*] as he would not be prevailed upon to return to his fatherland [He went into exile at Smyrna and revocante eum P. Sulla manere in exsilio maluit, Brut. 22. 85].

3 *commenticia*] § 224.

6 *supplicavit*] Brut. 80. 278, ubi dolor? ubi ardor animi (§ 134) qui etiam ex infantium ingeniis elicere voces et querelas solet? Nulla perturbatio animi, nulla corporis; frons non percussa, non femur; *pedis, quod minimum est, nulla supplosio* [So in describing the oratory of Crassus, Brut. 43. 158, non crebra *supplosio pedis*, cf. de Orat. III. 12. 47; 59. 220] P.

10 *ita*] Plato's ἀπολογία Σωκράτους is the most splendid illustration of this.

11 *ipse*] Tusc. I. 29. 71, Socrates nec patronum quaesivit ad iudicium capitis nec iudicibus *supplex* fuit adhibuitque liberam contumaciam a magnitudine animi ductam non a superbia.

16 *calceos Sicyonios*] soft and costly shoes, principally used by women, and hence utterly unsuitable to Socrates, who generally went barefoot [σικυώνια ὑποδήματα mulierum erant, λακωνικαί virorum, certo Aristophanis aetate; v. Poll. VII. 93, Athen. IV. 155.] Ell.

18 *orationem*] According to Diog. Laert. II. 40, Socrates answered καλὸς μὲν ὁ λόγος οὐ μὴν ἁρμόττων.

damnatus est; neque solum primis sententiis, quibus tantum statuebant iudices, damnarent an absolverent, sed etiam illis, quas iterum legibus ferre debebant. Erat 232
enim Athenis reo damnato, si fraus capitalis non esset quasi poenae aestimatio; et sententia cum iudicibus daretur, interrogabatur reus, quam quasi aestimationem commeruisse se maxime confiteretur; quod cum interrogatus Socrates esset, respondit sese meruisse ut amplissimis honoribus et praemiis decoraretur et ut ei victus cotidianus in Prytaneo publice praeberetur, qui honos apud Graecos maximus habetur. Cuius responso iudices sic 233
exarserunt, ut capitis hominem innocentissimum condemnarent; qui quidem si absolutus esset, quod mehercule, etiamsi nihil ad nos pertinet, tamen propter eius ingenii magnitudinem vellem, quonam modo istos philosophos ferre possemus, qui nunc, cum ille damnatus est nullam aliam ob culpam nisi propter dicendi inscientiam, tamen a se oportere dicunt peti praecepta dicendi? Quibuscum ego non pugno, utrum sit melius aut verius: tantum dico

1 *primis sententiis*] Upon the first voting of the jury on the question "guilty or not guilty?" in many cases (where the law had not already fixed the punishment, an ἀγὼν ἀτιμητός) there followed a second, on the penalty (τίμημα, hence ἀγὼν τιμητός), especially in public prosecutions, to which class belonged the prosecution of Socrates as a γραφὴ ἀσεβείας. In this case when the judges had to determine ὅ τι χρὴ παθεῖν ἢ ἀποτῖσαι, the prosecutor entered his estimate of the penalty on the indictment (ἐπάγειν τὸ τίμημα), against which the accused was prepared to set his estimate in case of condemnation (ἀντιτιμᾶσθαι). Then followed the final decision. Socrates would not consent to avail himself of this right, because he would thereby have acknowledged himself to be guilty, but gave the well-known answer. [Cf. Grote, Hist. Greece, Pt. II. c. LXVIII., Vol. VIII. p. 658 (1st ed.).

4 [*si fraus capitalis*, an offence necessarily involving his civic status].

9 *ei*] from the point of view of the relator (Antonius). [Otherwise sibi would have been required; for this occasional use of *is* for *se* cf. Madvig, § 490, c. obs. 3].

11 *habetur*] added by Antonius for explanation: haberetur (as even Erl. 1. b. reads) would intimate that these words too were spoken by Soc. before the judges, which is of course absurd.

15 *quonam modo*] how the claims of the philosophers would then be increased.

16 *cum*] referring to nunc, 'in a case, where.'

17 *inscientiam*] with an allusion to his own phrase: se id tantum scire, se nihil scire, § 42.

19 *utrum*] the art of oratory or philosophy.

et aliud illud esse atque hoc et hoc sine illo summum esse posse.

Nam quod ius civile, Crasse, tam vehementer amplexus 55
es, video quid egeris; tum, cum dicebas, videbam: primum 234
Scaevolae te dedisti, quem omnes amare meritissimo pro eius eximia suavitate debemus; cuius artem cum indotatam esse et incomptam videres, verborum eam dote locupletasti et ornasti; deinde quod in ea tu plus operae laborisque consumpseras, cum eius studii tibi et hortator et magister esset domi, veritus es, nisi istam artem oratione exaggerasses, ne operam perdidisses. Sed ego ne 235
cum ista quidem arte pugno: sit sane tanta, quantam tu illam esse vis—etenim sine controversia et magna est et late patet et ad multos pertinet et summo in honore semper fuit et clarissimi cives ei studio etiam hodie praesunt —sed vide, Crasse, ne, dum novo et alieno ornatu velis ornare iuris civilis scientiam, suo quoque eam concesso et

§ 234 The reply of Ant. is directed secondly against the position of Crassus, that for the orator a special study of jurisprudence is needful. 55. 234—60. 256.

4 *tum, cum dicebas, videbam*] is so far from being an unmeaning addition, that we ought rather to recognize thereby the whole demeanour of Crassus during the juristical division of his previous speech: how Cr. continually turned to his beloved father-in-law, was always looking to him, the illustrious jurist, to see what he would say to it, so that the whole statement appeared controlled by Scaevola's looks and gestures. This, Ant. means, was to be noticed in your representation, that every demand had throughout a personal reference, was a compliment to your honoured, love-worthy father-in-law, or rather to his favourite jurisprudence, which you in its poverty (without the dower of eloquentia) and bareness (without the ornatus dicendi) enriched and clothed with your gifts; with an evident allusion to the very simple and unadorned eloquence of Mucius (§ 229, nullo apparatu), perhaps also to the dos profectitia, which Cr., according to the Roman law, must have given back to this wife's father on her death (§ 24).

7 *incomptam*] Or. 23. 78, Nam ut mulieres esse dicuntur nonnullae inornatae, quas id ipsum deceat, sic haec subtilis oratio etiam *incompta* delectat; tum removebitur omnis insignis ornatus quasi margaritarum, ne calamistri quidem adhibebuntur, fucati vero medicamenta candoris et ruboris omnia repellentur. [Kayser incomitatam: some MSS. read et incomitatam et incomptam.]

15 *praesunt*] §§ 186, 198. *ornare—ornatu*, as Or. 25. 83, illuminat luminibus. This juxtaposition of words of the same root (according to the Greek idiom) or the so-called figura etymologica is not rare in Lat. [cf. Lobeck, Paralip. II. 523 sqq].

16 *vide—ne*] § 55.

tradito spolies atque denudes: nam, si ita diceres, qui 236
iuris consultus esset, esse eum oratorem, itemque qui esset orator, iuris eundem esse consultum, praeclaras duas artes constitueres atque inter se pares et eiusdem socias dignitatis; nunc vero iuris consultum sine hac eloquentia, de qua quaerimus, fateris esse posse fuisseque plurimos; oratorem negas, nisi illam scientiam adsumpserit, esse posse: ita est tibi iuris consultus ipse per se nihil nisi leguleius quidam cautus et acutus, praeco actionum, cantor formularum, auceps syllabarum, sed quia saepe utitur orator subsidio iuris in causis, idcirco istam iuris scientiam eloquentiae tamquam ancillulam pedisequamque adiunxisti.

Quod vero impudentiam admiratus es eorum patro- 56
norum, qui aut, cum parva nescirent, magna profiterentur 237
aut ea, quae maxima essent in iure civili, tractare auderent in causis, cum ea nescirent numquamque didicissent, utriusque rei facilis est et prompta defensio: nam neque illud est mirandum, qui, quibus verbis coëmptio fiat, nesciat, eundem eius mulieris, quae coëmptionem fecerit, causam posse defendere; nec, si parvi navigii et magni

8 *leguleius*] ['pettifogger], Quint. alii se ad album (i.e. praetorum edicta) ac rubricas (iuris-consultorum libras) transtulerunt et *formularii* vel—*leguleii* quidam esse maluerunt, tamquam utiliora elegentes ea quorum solam facultatem sequebantur.

9 *praeco actionum*] who makes known what special *indictments* ought to be drawn up in each case.

cantor formularum] who monotonously recites in a string the regular formulae for suits (carmina). Pro Mur. 12. 26.

10 *auceps syllabarum*] 'a peddler with syllables,' who is proving his point ex scripto, from the letter of the law, presses each letter to the utmost exactness and hence is strong in quibbling interpretations. (Pro. Caec. 23. 65, aucupia verborum et litterarum tendicula.)

12 *ancillulam*] 'little maid-servant.'

13 *impudentiam*] § 173 sqq. *coëmptio* [Gai. Inst. 1. 113, coëmptione in manum conveniunt feminae per mancipationem, i.e. per quandam imaginariam venditionem, adhibitis non minus quam quinque testibus, civibus Romanis puberibus, item libripende, praeter mulierem eumque cuius in manus convenit. Boëth. in Cic. Top. 3. 14, coemptio certis solemnitatibus peragebatur et sese in coëmendo invicem interrogabant; vir ita: an sibi mulier *materfamilias* esse vellet? illa respondebat velle: item mulier interrogabat: an vir *paterfamilias* esse vellet? ille respondebat velle.] P.

19 *fecerit*] the regular word, 'who had formed a betrothal or marriage contract.'

20 *causam*] upon any excessive use

eadem est in gubernando scientia, idcirco qui, quibus verbis herctum cieri oporteat, nesciat, idem herciscundae familiae causam agere non possit. Nam, quod maximas 238
centumvirales causas in iure positas protulisti, quae tandem earum causa fuit, quae ab homine eloquenti iuris imperito non ornatissime potuerit dici? quibus quidem in causis omnibus, sicut in ipsa M'. Curii, quae abs te nuper est dicta, et in C. Hostilii Mancini controversia atque in eo puero, qui ex altera natus erat uxore, non remisso nuntio superiori, fuit inter peritissimos homines summa de iure dissensio: quaero igitur, quid adiuverit oratorem 239
in his causis iuris scientia, cum hic iuris consultus superior fuerit discessurus, qui esset non suo artificio, sed alieno,

of the husband's power or other injuries on his side, a public orator can step forward as the advocate of the wife, even if he has not any special knowledge of the formulae of the marriage contract. His client must supply him with the needful material.

1 *eadem*] inasmuch as he who does *not* know how to manage a little skiff, *cannot* steer a large ship, § 174. But this proposition cannot be at once applied, says Ant., to the capacity of an orator for appearing as an advocate in private suits; rather an orator ought to be in a good position (nec—non possit) herciscundae familiae causam agere, in spite of his ignorance of the appropriate formulae (qui—nesciat).

2 *herctum cieri*] (cf. cohercere) 'with what formulae the division of the inheritance must take place.' The expressions here used were usual in dividing legacies: herctum ciere = divisum (supine) provocare, to make a call for the division of the property, i.e. upon the arbiter appointed by a formal legis actio or official divider of the inheritance, which was done with regular forms. If it came to a suit about the division, then the actio familiae herciscundae, the action for the division of the property, came in: in this phrase familia is used in its old meaning of 'property' = res familiaris: hercis. fam. causam agere, is to conduct as counsel a suit for the division of property.

7 M'. Curii, § 180 [Quidam praegnantem uxorem relinquens scripsit heredem postumum eique alium substituit secundum, qui Curius vocabatur, ea conditione ut si postumus qui intra menses decem proximos nasceretur ante moreretur quam in suam tutelam venisset, i.e. ante obiret diem, quam testamentum iure facere posset, iure succederet. (Boeth. in Cic. Top. IV. p. 331). But no son was born and so M'. Curius claimed the inheritance for himself; while M. Coponius maintained that the will was altogether invalid, and that he himself succeeded as next of kin. The trial is very graphically described by Cic. Brut. 52. 195].

8 *Hostilii*] § 181. *puero*, § 183.

13 *non suo artificio*] 'not by his knowledge of his own department,' which in such disputed cases gives no information.

hoc est, non iuris scientia, sed eloquentia sustentatus. Equidem hoc saepe audivi: cum aedilitatem P. Crassus peteret eumque maior natu et iam consularis Ser. Galba adsectaretur, quod C. filio filiam suam despondisset, accesisse ad Crassum consulendi causa quendam rusticanum, qui cum Crassum seduxisset atque ad eum rettulisset, responsumque ab eo verum magis, quam ad suam rem accommodatum abstulisset, ut eum tristem Galba vidit, nomine appellavit quaesivitque, qua de re ad Crassum rettulisset; ex quo ut audivit commotumque ut vidit hominem, 'suspenso' inquit 'animo et occupato Crassum tibi respondisse video,' deinde ipsum Crassum manu prehendit et 'heus tu,' inquit 'quid tibi in mentem venit ita respondere?' tum ille fidenter homo peritissimus confirmare ita se rem habere, ut respondisset, nec dubium esse posse; Galba autem adludens varie et copiose multas similitudines adferre multaque pro aequitate contra ius dicere; atque illum, cum disserendo par esse non posset—quam-

2 *cum—peteret*] after the consulship of Galba (144) and before that of P. Crassus (131), hence not long after the year 140. *P. Crassus*, § 170.

4 *adsectaretur*] in order to support him in his canvass by his own influence.

Gaio filio filiam suam despondisset] Acc. to Varro, de L. L. VI. 71 (qui spoponderat filiam *despondisse* dicebatur), despondere is said of the father of the bride, who in the act of betrothal gives his daughter in manum viri, as is seen from the answer which the father of the bride made to the formal question of the father of the bridegroom: 'sponden' tuam gnatam filio uxorem meo?' 'spondeo.' Hence here as in Brut. 26. 98, cuius (sc. Galbae) Gaio filio filiam suam collocaverat (sc. Crassus). [vulg. quod Crassi filiam C. filio suo desp. Kayser cuius C. filio suam filiam desp.] despondisset is closely connected with *eumque* adsectaretur: hence the conjunctive. [Quintil. I. 7. 28.]

9 *nomine appellavit*] with deliberate calculation, because G. well knew how it awakens confidence in a common man to be called by name, esp. by such a distinguished noble—πατρόθεν ἐκ γενεῆς ὀνομάζων ἄνδρα ἕκαστον, Hom. Il. X. 67; Thuc. VII. 69; he had managed to learn the name quickly from the nomenclator, who was in fact a regular attendant upon distinguished Romans during their candidateship. [Cf. Hor. Ep. I. 6. 50.]

11 *suspenso animo et occupato*] in thought and busy with other matters. Brut. 54. 200.

16 *adludens*] προσπαίζων, with various highly witty jests.

similitudines] 'analogous cases.'

18 [*disserendo par*, 'a match for him in talking'].

quam fuit Crassus in numero disertorum, sed par Galbae nullo modo—ad auctores confugisse et id, quod ipse diceret, et in P. Mucii fratris sui libris et in Sex. Aelii commentariis scriptum protulisse ac tamen concessisse Galbae disputationem sibi probabilem et prope veram videri. Attamen, quae causae sunt eius modi, ut de earum iure 57
dubium esse non possit, omnino in iudicium vocari non 241
solent. Num quis eo testamento, quod paterfamilias ante fecit, quam ei filius natus esset, hereditatem petit? Nemo; quia constat agnascendo rumpi testamentum. Ergo in hoc genere iuris iudicia nulla sunt. Licet igitur impune oratori omnem hanc partem iuris sine controversiis ignorare, quae pars sine dubio multo maxima est; in eo autem 242
iure, quod ambigitur inter peritissimos, non est difficile oratori eius partis, quamcumque defendet, auctorem aliquem invenire; a quo cum amentatas hastas acceperit, ipse eas oratoris lacertis viribusque torquebit. Nisi vero —bona venia huius optimi viri dixerim—Scaevolae tu

3 Either the legal case rests upon quite indisputable and definite law (ius certum), then it does not come under the cognizance of the court: or it falls under the head of ius controversum (pro Mur. 13. 28), then the orator can consult an approved jurist.

10 *rumpi*] is the technical expression for this case of the nullity of a will by agnatio postumi. The testamentum is ruptum when it is e. g. irritum because of the incapacity of the testator, § 173.

12 *sine controversiis*] is the right reading according to the indications given by the MSS. [K. and Ell. [in controversiis.] Bake non controversi.] Cicero often expresses the negative conception of an attribute, the *a* privative, thus by sine; e. g. Orat. part. 14. 48, illa (sc. argumenta) quae *sine arte* (πίστεις ἄτεχνοι) appellantur, quae adsumpta dixisti. Cf. Ov. Met. 1. 20, pugnabant *sine pondere* habentia pondus.

13 *quae pars*] § 174.

16 *amentatas*] from the armoury of the jurist lances supplied with the amentum, the thong for flinging with: for amentum est lorum quo media hasta religatur et iacitur (Brut. 78. 271). Top. 17. 65, Privata enim iudicia maximarum quidem rerum in iurisconsultorum mihi videntur esse prudentia. Nam et adsunt multum et adhibentur in consilio et patronis diligentibus, ad eorum prudentiam confugientibus, *hastas ministrant*. Quint. XII. 3. 4.

18 *Scaevolae*] of course, not the one who was present at the conversation (as the nom. pr. has been falsely taken to refer to huius optimi viri, for praecepta only not libelli of his are quoted), but the brother of P. Crassus Mucianus and the father of Q. Mucius Scaevola pont. max.

libellis aut praeceptis soceri tui causam M'. Curii defendisti, non adripuisti patrocinium aequitatis et defensionem testamentorum [ac] voluntatis [mortuorum]; ac mea qui- 243
dem sententia—frequens enim te audivi atque adfui—
multo maiorem partem sententiarum sale tuo et lepore et politissimis facetiis pellexisti, cum et illud nimium acumen illuderes et admirarere ingenium Scaevolae, qui excogitasset nasci prius oportere quam emori; cumque multa colligeres et ex legibus et ex senatus consultis et ex vita
ac sermone communi non modo acute, sed etiam ridicule ac facete, ubi si verba, non rem sequeremur, confici nihil posset. Itaque hilaritatis plenum iudicium ac laetitiae fuit; in quo quid tibi iuris civilis exercitatio profuerit, non intellego; dicendi vis egregia summa festivitate et
venustate coniuncta profuit. Ipse ille Mucius paterni iuris 244
defensor et quasi patrimonii propugnator sui, quid in illa

'qui ius civile fundavit,' and is explicitly mentioned as the author of *decem libelli de iure civili*. Ant. wishes by the form of courtesy which he prefixes to prove that he does not desire in any way to violate the due respect for the legal knowledge of the Scaevolas in general and the augur present. [Kayser and Ell. bracket *Scaevolae*.]

2 *aequitatis*] that you therefore did not regard strict law and positive legal prescriptions.

3 *testamentorum voluntatis*] The bracketed words evidently do not belong to the text, as is clearly proved by the parallel passage Brut. 53. 198, deinde (Crassus) aequum bonum *testamentorum sententias voluntatesque* tutatus est. The emphasis therefore here lies on voluntatis; for Cr. did *not* defend testamenta, but the *voluntas* testamentorum, when he proved that regard must be had to the intention and the meaning (*διάνοια*) of wills and not to the mere letter (*ῥητόν*), § 140. [No other editor apparently suspects the bracketed words.]

4 *audivi atque adfui*] *παρὼν ἤκουσα*, I have often heard you myself, so that I can allow myself to pass judgment upon your appearance in the causa Curiana. [For the adverbial use of *frequens* cf. pro Rosc. Am. 6. 16, erat ille Romae frequens.]

5 *sententiarum*] sc. iudicum, § 231.

15 *ille*] not 'the well-known' (this is quite out of place for evident reasons) but 'that very M.' 'cuius nimium acumen illudebas,' the jurist *κατ' ἐξοχήν* who in the causa Curiana defended strict ius (§ 117, illam ipsam medioc. § 132, illi ipsi Roscio).

Mucius] the pontifex Scaevola, who has just been mentioned § 180. The gentile name is perhaps intentionally employed here with reference to the legal learning hereditary in the gens Mucia.

16 *quasi patrimonii*] who therefore fought in the causa Cur. in a certain sense pro ara et focis: even he did not attempt abstruse legal disquisitions, but his argument confined

causa, cum contra te diceret, attulit, quod de iure civili depromptum videretur? quam legem recitavit? quid patefecit dicendo, quod fuisset imperitis occultius? Nempe eius omnis oratio versata est in eo, ut scriptum plurimum valere oportere defenderet, at in hoc genere pueri apud magistros exercentur omnes, cum in eius modi causis alias scriptum, alias aequitatem defendere docentur. Et, credo, 245
in illa militis causa, si tu aut heredem aut militem defendisses, ad Hostilianas te actiones, non ad tuam vim et oratoriam facultatem contulisses: tu vero, vel si testamentum defenderes, sic ageres, ut omne omnium testamentorum ius in eo iudicio positum videretur, vel si causam ageres militis, patrem eius, ut soles, dicendo a mortuis excitasses; statuisses ante oculos; complexus esset filium flensque eum centumviris commendasset; lapides mehercule omnes flere ac lamentari coëgisses, ut totum illud UTI LINGUA NUNCUPASSIT non in XII. tabulis, quas tu omnibus bibliothecis anteponis, sed in magistri carmine scriptum videretur.

itself to the very elementary distinction between scriptum and voluntas, quite intelligible to laymen.

8 *in illa militis causa*] § 175.

10 *testamentum*] in its legal rigour, just as it was drawn up.

11 *omne omnium testamentorum ius*] you would not have kept to the concrete case, but would have treated the case from a perfectly general point of view, and for this no special legal studies were necessary.

13 *ut soles*] by the usual and occasionally very effective employment of *προσωποποιία* or the personarum ficta inductio, which Cr. himself afterwards (III. 53. 205) calls vel gravissimum lumen augendi.

14 *excitasses* etc.] you would have brought him in speaking and have made him prove that he only altered the will because he believed his beloved son to be dead. Or. 25. 85, the orator who speaks in the genus dicendi Atticum, i.e. summissum, ille tenuis orator non faciet rempublicam loquentem nec *ab inferis mortuos excitabit*.

complexus] of course pater, in the effective painting of Crassus.

16 *coëgisses*] (not coëgisset) as the climax of the effect which Cr. produced in favour of the son disinherited according to the rigorous letter of the will: excitasses, statuisses (then the additional touches comp. esset, comm.), coëgisses, with which the sequence ceases.

17 *uti lingua nuncupassit*] The complete formula ran uti l. n. ita ius esto, and was intended to preclude an interpretation inconsistent with the literal force of the words. *nuncupassit* = nuncupaverit or nuncuparit III. 38. 153. [from the orig. form -avesit. Madvig, § 8, but cf. § 115 *f.*]

18 *in magistri carmine*] § 105; II.

Nam quod inertiam accusas adulescentium, qui istam 58
artem primum facillimam non ediscant, quae quam sit 246
facilis, illi viderint, qui eius artis adrogantia, quasi difficillima sit, ita subnixi ambulant, deinde etiam tu ipse videris, qui eam artem facilem esse dicis, quam concedis adhuc artem omnino non esse, sed aliquando, si quis aliam artem didicerit, ut hanc artem efficere possit, tum esse illam artem futuram; deinde, quod sit plena delectationis; in qua tibi remittunt omnes istam voluptatem et ea se carere patiuntur; nec quisquam est eorum, qui, si iam sit ediscendum sibi aliquid, non Teucrum Pacuvii malit quam Manilianas venalium vendendorum leges ediscere. Tum autem quod amore patriae censes nos nostrorum 247
maiorum inventa nosse debere, non vides veteres leges aut ipsas sua vetustate consenuisse aut novis legibus esse sublatas? Quod vero viros bonos iure civili fieri putas, quia legibus et praemia proposita sint virtutibus et supplicia vitiis, equidem putabam virtutem hominibus, si modo

18. 75. In spite of the high value you set on the XII. Tables, you treat their express provision as though this stood not in this valued statecode, but in the rhetoricians' school catechism, in which the elementary rules, that they may make the more impression (for 'facilius singula incidunt circumscripta et carminis modo inclusa,' Sen. Ep. 33), are expressed in a definite sequence of words (as in verse or in the typical formulae of the jurists in pro Mur. 12. 27, 'ne quid verborum praetereatur aut praeposterum dicatur,' Plin. H. N. XXVIII. 2. 3) and so must be learnt by being recited in measured time. Cf. de Leg. II. 23. 59.

1 *Nam*] in the so-called occupatio, as in § 254. The whole sentence is divided into two principal parts, of which the first ends at futuram, the second at ediscere: 'for as to the first reason of your attack upon the laziness of the younger men, drawn from the easiness of the subject, this is contradicted alike by the usual position maintained by jurists and by your own admission (§ 186); as for the reason borrowed from the great attraction of legal science, every one will gladly abandon *that* delight to you.' The clause containing the refutation is in each case formed by the emphatic relative sentence (*quae* quam sit and *in qua* tibi remittunt, § 9.

3 *eius artis*] because of the possession of this knowledge.

5 [*videris*. Madvig, § 340, obs. 4.]

14 *inventa*] the history of culture in previous generations; for inventa or inventae res embraces (in opposition to actae res, i. e. external political history) all that relates to a life of culture in rules, customs, arts &c. Brut. 56. 205, Fuit is—antiquitatis nostrae et in inventis rebus et in actis scriptorumque veterum litterate peritus.

tradi ratione possit, instituendo et persuadendo, non minis et vi ac metu tradi. Nam ipsum quidem illud etiam sine cognitione iuris, quam sit bellum cavere malum, scire possumus. De me autem ipso, cui uni tu concedis, ut sine 248
ulla iuris scientia tamen causis satis facere possim, tibi hoc, Crasse, respondeo, neque me umquam ius civile didicisse neque tamen in eis causis, quas in iure possem defendere, umquam istam scientiam desiderasse: aliud est enim esse artificem cuiusdam generis atque artis, aliud in communi vita et volgari hominum consuetudine nec hebetem nec rudem. Cui nostrum licet fundos nostros obire 249
aut res rusticas vel fructus causa vel delectationis invisere? Tamen nemo tam sine oculis, tam sine mente vivit, ut quid sit sementis ac messis, quid arborum putatio ac vitium, quo tempore anni aut quo modo ea fiant omnino nesciat: num igitur si qui fundus inspiciendus aut si mandandum aliquid procuratori de agri cultura aut imperandum villico est, Magonis Karthaginiensis sunt libri perdiscendi, an hac communi intellegentia contenti esse

3 *quam sit bellum*] to ridicule the moral saws and injunctions that were often very trivial.

7 *in iure*] Suits, in conducting which questions arose upon special positive prescriptions of private law.

8 *aliud*] similarly III. 23. 86.

11 The proposition that an orator can appear in cases of private law, without being a jurist by profession, if he only possesses ordinary sound common sense, is explained by an analogous instance. For *obire fundos* and *res rusticas invisere* correspond to the special study of law (§ 173, iudicia privata obire), which Cicero had desired vel fructus vel detestationis causa. Hence non (before *licet*) does not belong to the text, and prob. crept in from a marginal note, which rightly enough replied to the substance of the question, 'non licet:' 'which of us, in consequence of the amount of political business, has time to give himself up entirely to the management of his property? Still every one of us, by virtue of his general knowledge is able,' &c.

13 *Tamen nemo*] § 251.

16 *si qui*] as Bake has rightly corrected the vulg. cui [so Kayser]: any one of the many forms that belong to the estate. *inspiciendus* &c. for a special direction or from some other reason, which requires the personal presence of the owner, to examine the state of affairs for himself. The *procurator* is the representative of the master, who manages the property in his name. Under him is the *villicus*, at the head of the slaves, who has to look after the lands. Hence for the former mandare, for the latter imperare. [*Magonis*, cf. Mommsen, II. p. 19.]

possumus? Cur ergo non eidem in iure civili, praesertim cum in causis et in negotiis et in foro conteramur, satis instructi esse possumus ad hoc dumtaxat, ne in nostra patria peregrini atque advenae esse videamur? ac si iam 250
sit causa aliqua ad nos delata obscurior, difficile, credo, sit, cum hoc Scaevola communicare; quamquam ipsi omnia, quorum negotium est, consulta ad nos et exquisita deferunt. An vero, si de re ipsa, si de finibus, cum in rem praesentem venimus, si de tabulis et perscriptionibus controversia est, contortas res et saepe difficiles necessario perdiscimus; si leges nobis aut si hominum peritorum responsa cognoscenda sunt, veremur ne ea, si ab adulescentia iuri civili minus studuerimus, non queamus cognoscere?

Nihilne igitur prodest oratori iuris civilis scientia? 59
Non possum negare prodesse ullam scientiam, ei praesertim, cuius eloquentia copia rerum debeat esse ornata; sed multa et magna et difficilia sunt ea, quae sunt oratori necessaria, ut eius industriam in plura studia distrahere nolim. Quis neget opus esse oratori in hoc oratorio motu 251
statuque Roscii gestum et venustatem? Tamen nemo suaserit studiosis dicendi adulescentibus in gestu [discendo] histrionum more elaborare. Quid est oratori tam necessarium quam vox? Tamen me auctore nemo dicendi stu-

1 *eidem*, Bake: item.

3 *dumtaxat* [lit. while one values, exactly estimates, hence 'at least'], II. 14. 60; 20. 87, &c.

6 *ipsi*] 'of their own accord,' III. 47. 182.

8 *de re ipsa*] opposed to *leges*, § 78. *in rem praesentem*] i. e. to inspect the actual place in order to view the possession in dispute for ourselves, is to be closely connected with *de finibus*, as one legal term, 'where the question is one of such difficult boundary quarrels.' The non which is found in the MSS. and edd. before venimus is evidently inappropriate, as is shewn by the parallel passages pro Caec. 7. 20, quo die in rem praesentem veniretur, de Off. I. 11. 32, te in rem praes. esse venturum; and comes from a gloss writer, who did not understand the legal use of the formula. Liv. XL. 17, eodem anno inter populum Carthaginiensem et regem Massinissam *in re praesenti* disceptatores Romani de agro fuerunt.

9 *de tabulis et perscriptionibus*] where the question turns on the correctness or incorrectness of calculations often very complicated, and on assignments [ad Att. IV. 18. 2], or bills of exchange, i. e. on very difficult matters of finance.

diosus Graecorum more tragoedorum voci serviet, qui et annos complures sedentes declamitant et cotidie, ante quam pronuntient, vocem cubantes sensim excitant eandemque, cum egerunt, sedentes ab acutissimo sono usque ad gravissimum sonum recipiunt et quasi quodam modo conligunt. Hoc nos si facere velimus, ante condemnentur ei, quorum causas receperimus, quam totiens, quotiens praescribitur, Paeanem aut Nomionem citarimus. Quodsi 252 in gestu, qui multum oratorem adiuvat, et in voce, quae una maxime eloquentiam vel commendat vel sustinet,

1 *Graecorum more trag.*] (like histrionum more, cf. § 128; III. 26. 102; 59. 220). As the tragic actors needed very considerable strength of voice for their recitative-like delivery, and also were required to understand how to raise their voice gradually, especially in impassioned passages, and let it swell up to the highest point, they had to practise it (like our opera-singers) by continual exercise. *Graecorum* is designedly put first, because the art of dramatic representation was especially the forte of the Greeks: Aristot. Prob. XI. 22 [why is the voice of those that shout after a meal ruined? and we may see all those who cultivate their voice, such as actors, chorus-singers, and others of the same class, practising early in the morning before breaking their fast].

voci serviet] III. 60. 225. [*pronuntient*, Madv. § 360 c.]

4 *ab acutissimo*] Quint. XI. 3. 22, Sed ut communiter et phonascis (fr. φωνῆ and ἀσκεῖν [Tac. Ann. XIV. 15]) et oratoribus necessaria exercitatio, ita curae non idem genus est. Nam neque certa tempora ad spatiandum dari possunt tot civilibus officiis occupato, nec *praeparare ab imis sonis vocem ad summos*, nec semper a contentione condere (i. e. finire) licet cum pluribus iudiciis saepe dicendum sit.

6 *condemnetur*] The idea in Quint. X. 7. 2 is very similar, where he insists that the public speaker must make his appearance without long preparation; stabitne mutus, et salutarem petentibus vocem *statim si non succurratur perituris*, moras et secessum et silentium quaeret, dum illa verba fabricentur et memoriae insideret, et *vox ac latus praeparetur*?

8 *Paeanem aut Nomionem*] This latter word, which has been restored by conjecture for the MSS. numionem, ought to denote, in its connection with the song of victory, a hymn to Apollo. Hence one might conjecture simply 'hymnum.' Others [Orelli and Baiter] read nomum, i. e. νόμον, after Plat. Leg. III. p. 700 B, a kind of composition resembling the dithyramb [cf. Ar. Eq. 9 with the note of Cas. νόμος autem Latine verti non potest: unde Latini hoc nomen retinent, ut Suetonius et alii auctores]: others think it refers to the employment of metrical feet, the paeon and the ionicus, and would read paeonem aut etiam ionem. This last cannot be right; the practice of the Greek tragic actors seems rather to have consisted in the repetition one after another of several kinds of songs of varied rhythm and accent, and hence so much the more difficult for declamation, and therefore the better fitted for practice; recurring to them again and again, like our opera-singers, to difficult passages.

elaborare nobis non licet ac tantum in utroque adsequi possumus, quantum in hac acie cotidiani muneris spatii nobis datur, quanto minus est ad iuris civilis perdiscendi occupationem descendendum? quod et summatim percipi sine doctrina potest et hanc habet ab illis rebus dissimilitudinem, quod vox et gestus subito sumi et aliunde adripi non potest, iuris utilitas ad quamque causam quamvis repente vel a peritis vel de libris depromi potest. Itaque 253
illi disertissimi homines ministros habent in causis [iuris peritos], qui ipsi sint peritissimi, et qui, ut abs te paulo ante dictum est, pragmatici vocantur, in quo nostri omnino melius multo, quod clarissimorum hominum auctoritate leges et iura tecta esse voluerunt. Sed tamen non fugisset hoc Graecos homines, si ita necesse esse arbitrati essent oratorem ipsum erudire in iure civili, non ei pragmaticum adiutorem dare. Nam quod dicis senectutem a 60
solitudine vindicari iuris civilis scientia, fortasse etiam 254

2 *in hac acie*] on the battle-field of one's daily duty. *Summatim*, generally, II. 36. 153; 61. 248.

5 *ab illis rebus dissim.*] 'differs from those things in this.' *adripi*, 'quickly caught up,' § 242. *iuris utilitas*, what ius is required. *de libris*, § 244.

9 *illi*] there, among the Greeks (§ 98; II. 4. 18) opposed to nostri. *qui*, vulg. in causis iuris peritos, cum ipsi sint peritissimi [et] qui. *iuris peritos* is prob. a gloss on ministros. [Kayser reads—Causis iuris peritos [cum ipsi sint peritissimi, et qui] ut ...est pragmatici vocantur]. Antonius does not mean to describe the Greek inferior assistants [§ 198] simply and absolutely as iuris peritos, but as such men who in their own calling (ipsi) must be versed in the necessary legal material (iura et leges), and well instructed in their special business (§§ 104, 191, 238, 242), in order to perform the needful services for the orator who has much of greater importance to attend to than to give himself up to an occupation which takes up much time, and is on the whole merely matter of routine. Quint. XII. 3. 4, neque ego sum nostri moris ignarus oblitusve eorum, qui velut ad arculas sedent et tela agentibus [§ 242] subministrant, neque idem Graecos quoque nescio factitasse, unde nomen his *pragmaticorum* datum est.

12 *multo melius*] sc. fecerunt: the omission of the verb in such frequent universally intelligible phrases is common: ad Ath. XVI. 12, sed quid tibi dicam? bonum animum (habeamus), XV. 20. 3, sed acta missa (faciamus).

13 *non fugisset*] they would not have neglected, *oratorem ipsum erudire, non—dare*, for the sake of the sharp contrast, in the sense of neque vero dedissent (Graeci).

17 *fortasse etiam pecuniae multitudine*] sc. vindicatur. With as much justice it could be maintained that it belonged to an orator to make money in order to have friends in

pecuniae magnitudine; sed nos non quid nobis utile, verum quid oratori necessarium sit, quaerimus. Quamquam, quoniam multa ad oratoris similitudinem ab uno artifice sumimus, solet idem Roscius dicere se, quo plus sibi aetatis accederet, eo tardiores tibicinis modos et cantus remissiores esse facturum: quodsi ille astrictus certa quadam numerorum moderatione et pedum tamen aliquid ad requiem senectutis excogitat, quanto facilius nos non laxare modos, sed totos mutare possumus? neque enim hoc 255
te, Crasse, fallit, quam multa sint et quam varia genera dicendi, id quod haud sciam, an tu primus ostenderis, qui iam diu multo dicis remissius et lenius, quam solebas; neque minus haec tamen tua gravissimi sermonis lenitas, quam illa summa vis et contentio probatur: multique oratores fuerunt, ut illum Scipionem audimus et Laelium, qui omnia sermone conficerent paullo intentiore, numquam, ut Ser. Galba, lateribus aut clamore contenderent. Quodsi iam hoc facere non poteris aut noles, vereris ne

old age. *Quamquam*, still a premature old age is not so badly off: the orator only needs, like the actor, to pitch his tone a note or two lower in advancing years, and to use a lower key, and he can still go on for a long while.

5 *eo tardiores*] De Leg. I 4. 11 (Atticus is speaking to Cicero), Atqui vereor, ne istam causam nemo noscat tibique semper dicendum sit; et eo magis, quod te ipse mutasti, et aliud dicendi instituisti genus: ut quemadmodum Roscius, familiaris tuus, *in senectute numeros in cantu reciderat, ipsasque tardiores fecit tibias*, sic tu a contentionibus quibus summis uti solebas, cotidie *relaxes* aliquid, ut iam oratio tua non multum a philosophorum lenitate absit. Quod sustinere cum vel summa senectus posse videatur, nullam tibi a causis vacationem video dari. Or. 52. 176, Gorgias se tantum quantum aetate procedebat relaxarat a nimia necessitate numerorum.

tibicini] who accompanied the cantica [cf. pro Mur. 12. 26], i. e. the monologue delivered almost like songs, in which (as in our opera airs) the liveliest rhythms were employed to express the strongest emotions.

7 *moderatione*] by a fixed metrical and rhythmical law, II. 8. 34; III. 48. 184.

11 *id quod* (in the MSS., as is often the case, id is corrupted into et), §§ 121, 137, 196, &c.

haud sciam] II. 17. 72 [Madv. § 453].

tu] II. 28. 121 [praesto est—qui hoc primus in nostros mores induxit, &c.]

13 *haec*] the present, *illa*, the former.

gravissimi] which still has not in the least lost its force and power.

16 [*paullo intentiore*, 'slightly elevated.']

tua domus talis et viri et civis, si a litigiosis hominibus non colatur, a ceteris deseratur? Equidem tantum absum ab ista sententia, ut non modo non arbitrer subsidium senectutis in eorum, qui consultum veniant, multitudine esse ponendum, sed tamquam portum aliquem exspectem istam, quam tu times, solitudinem, subsidium enim bellissimum existimo esse senectuti otium.

Reliqua vero etiamsi adiuvant, historiam dico et pru- 256
dentiam iuris publici et antiquitatis memoriam et exemplorum copiam, si quando opus erit, a viro optimo et istis rebus instructissimo, familiari meo Congo mutuabor, neque repugnabo, quo minus, id quod modo hortatus es, omnia legant, omnia audiant, in omni recto studio atque humanitate versentur: sed mehercule non ita multum spatii mihi habere videntur, si modo ea facere et persequi volent, quae a te, Crasse, praecepta sunt; qui mihi prope iam nimis duras leges imponere visus es huic aetati, sed tamen ad id, quod cupiunt, adipiscendum prope necessarias; nam et subitae ad propositas causas exercitationes 257
et adcuratae ac meditatae commentationes ac stilus ille tuus, quem tu vere dixisti perfectorem dicendi esse ac magistrum, multi sudoris est; et illa orationis suae cum scriptis alienis comparatio et de alieno scripto subita vel laudandi vel vituperandi vel comprobandi vel refellendi causa disputatio non mediocris contentionis est vel ad memoriam vel ad imitandum. Illud vero fuit horribile, 61
quod mehercule vereor ne maiorem vim ad deterrendum 258

5 *portum*] de Off. III. 1. 2.

8 *Reliqua*] § 201.

9 *antiquitatis memoriam*] [MSS. *ant. iter*, which K. considers a quotation from some earlier writer and retains; 'offendit Henrichsenium cum genitivus, tum etiam zeugma:' Ell. thinks the vulgate may be defended, but conj. notitiam.] Cf. § 18, tenenda *omnis antiquitatis exemplorumque vis*, §§ 159, 201. Brut. 59. 214; pro Caec. 28. 80; Or. 34. 120, commemoratio autem antiquitatis exemplorumque probatio summa cum delectatione et auctoritatem orationi affert et fidem.

12 *modo*] § 158. *recto studio*, 'methodical scientific pursuit,' as becomes an homo liber et ingenuus, § 99.

19 *subitae*] § 150.

habuerit quam ad cohortandum: voluisti enim in suo genere unum quemque nostrum quasi quendam esse Roscium; dixistique non tam ea, quae recta essent, probari, quam quae prava, fastidiis adhaerescere; quod ego non tam fastidiose in nobis quam in histrionibus spectari puto; itaque nos raucos saepe attentissime audiri video; tenet 259
enim res ipsa atque causa; at Aesopum, si paullum irrauserit, explodi, a quibus enim nihil praeter voluptatem aurium quaeritur, in eis offenditur, simul atque imminuitur aliquid de voluptate, in eloquentia autem multa sunt quae teneant, quae si omnia summa non sunt et pleraque tamen magna sunt, necesse est ea ipsa, quae sunt, mirabilia videri.

Ergo, ut ad primum illud revertar, sit orator nobis is, 260
qui, ut Crassus descripsit, accommodate ad persuadendum possit dicere; is autem concludatur in ea, quae sunt in usu civitatum volgari ac forensi, remotisque ceteris studiis, quamvis ea sint ampla atque praeclara, in hoc uno opere, ut ita dicam, noctes et dies urgeatur; imiteturque illum, cui sine dubio summa vis dicendi conceditur, Atheniensem Demosthenem, in quo tantum studium fuisse tantusque labor dicitur, ut primum impedimenta naturae diligentia industriaque superaret, cumque ita balbus esset, ut eius ipsius artis, cui studeret, primam litteram non posset dicere, perfecit meditando, ut nemo planius esse locutus putaretur; deinde cum spiritus eius esset angustior, tan- 261
tum continenda anima in dicendo est adsecutus, ut una continuatione verborum, id quod eius scripta declarant,

1 *voluisti*] § 130.

4 *adhaerescere*] like a stain which cannot be wiped off, § 129.

5 *fastidiose*] with an intentional play upon words, II. 54. 217; 'so nicely,' § 118.

6 *tenet enim res ipsa*] § 117.

14 *descripsit*] § 138. *balbus*] τραυλός, esp. of a man who cannot pronounce his r aright [like Alcibiades, who for κόραξ said κόλαξ. Cf. Plutarch, II. p. 2 (ed. Clough), and Ar. Vesp. 44, 45.]

23 *eius ipsius artis*] τῆς ῥητορικῆς (τέχνης), de Div. II. 46. 96. Demosthenem scribit Phalereus, cum ρ dicere nequiret, exercitatione fecisse, ut planissime diceret.

27 *eius scripta*] for *these* Ant. had read, II. 14. 61.

binae ei contentiones vocis et remissiones continerentur; qui etiam, ut memoriae proditum est, coniectis in os calculis, summa voce versus multos uno spiritu pronuntiare consuescebat; neque is consistens in loco, sed inambulans atque ascensu ingrediens arduo. Hisce ego cohortationi- 262
bus, Crasse, ad studium et ad laborem incitandos iuvenes vehementer adsentior; cetera, quae conlegisti ex variis et diversis studiis et artibus, tametsi ipse es omnia consecutus, tamen ab oratoris proprio officio atque munere seiuncta esse arbitror.'

Haec cum Antonius dixisset, sane dubitare visus est 62
Sulpicius et Cotta, utrius oratio propius ad veritatem videretur accedere, tum Crassus 'operarium nobis quen- 263
dam, Antoni, oratorem facis atque haud scio an aliter sentias et utare tua illa mirifica ad refellendum consuetudine, qua tibi nemo unquam praestitit; cuius quidem ipsius facultatis exercitatio oratorum propria est, sed iam in philosophorum consuetudine versatur maximeque eorum, qui de omni re proposita in utramque partem solent copiosissime dicere. Verum ego non solum arbitrabar, his 264
praesertim audientibus, a me informari oportere, qualis esse posset is, qui habitaret in subselliis neque quicquam amplius adferret, quam quod causarum necessitas postu-

1 *contentiones* etc.] *ἄρσεις καὶ θέσεις φωνῆς.* While usually one period has only one elevation of voice to the highest point, and hence only one sinking at its conclusion, one period of Demosthenes embraces two elevations and two corresponding lowerings.

3 *summa voce*] 'at the top of his voice.'

5 Epilogue, c. 62. 262—265. *The concluding words of Crassus, in which, in reply to the opposition of Antonius, he again briefly defends his higher conception of the orator, and at the same time alludes to the subject of the next conversation, in which Scaevola, to his great regret, will not be able to take part.*

13 *operarium*] § 83; III. 19. 69 sqq.

22 *habitaret in subselliis*] had taken up his dwelling on the bench, and did not come away from the lawcourts. So Brut. 89. 305, habitant in rostris, pro Mur. 9. 21, in foro habitant. Cf. § 173, haerere in tribunalibus, and II. 38. 160; 72. 292; III. 8. 31.

neque quicquam amplius] a mere man of practice.

laret, sed maius quiddam videbam, cum censebam oratorem, praesertim in nostra re publica, nullius ornamenti expertem esse oportere. Tu autem, quoniam exiguis quibusdam finibus totum oratoris munus circumdedisti, hoc facilius nobis expones ea, quae abs te de officiis praeceptisque oratoris quaesita sunt; sed opinor secundum hunc diem; satis enim multa a nobis hodie dicta sunt. Nunc et Scaevola, quoniam in Tusculanum ire constituit, 265
paullum requiescet, dum se calor frangat; et nos ipsi, quoniam id temporis est, valetudini demus operam.' Placuit sic omnibus. Tum Scaevola 'sane' inquit 'vellem non constituissem in Tusculanum me hodie venturum esse Laelio; libenter audirem Antonium;' et cum exsurgeret, simul adridens 'neque enim' inquit 'tam mihi molestus fuit, quod ius nostrum civile pervellit, quam iucundus, quod se id nescire confessus est.'

1 *videbam*] 'I had in my eye.' *cum censebam*] 'at the time when I expressed the opinion.' II. 160. 70, cum fingebat.

8 *Scaevola*] Cf. ad Ath. IV. 16. 3, Quod in eis libris quos laudes personare desideres Scaevolae, non eam temere dimovi: sed fui idem, quod in πολιτείᾳ deus ille noster Plato. Cum in Piraeum Socrates venisset ad Cephalum, locupletem et festivum senem, quoad primus ille sermo haberetur [Rep. Book I.] adest in disputando senex; deinde cum ipse quoque commodissime locutus esset, ad rem divinam dicit se velle discedere, neque postea revertitur. Credo Platonem vix putasse satis consonum fore, si hominem id aetatis in tam longo sermone diutius retinuisset. Multo ego satius hoc mihi cavendum putavi in *Scaevola*, qui et aetate et valetudine erat ea, qua esse meministi [§ 200].

15 *iucundus*] just because of his frank confession of his ignorance of law. Hereby Ant. gets a requital from the witty old man for his attack upon the ius civile.

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